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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU - Outcome of the European Parliament's first reading (Strasbourg, 11 to 14 March 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure[1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

[1] OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on Culture and Education (CULT) Sabine VERHEYEN (EPP, DE) presented on behalf of CULT a compromise amendment (amendment number 332) to the abovementioned proposal for a Regulation, for which she had prepared a draft report. This amendment had been agreed during the informal contacts referred to above.

In addition, the Left political group tabled three amendments (amendments number 333, 334 and 335).

II. VOTE

When it voted on 13 March 2024, the plenary adopted the compromise amendment (amendment number 332) to the abovementioned proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[2].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[2] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

P9_TA(2024)0137

European Media Freedom Act

European Parliament legislative resolution of 13 March 2024 on the proposal for a regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU (COM(2022)0457 – C9-0309/2022 – 2022/0277(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2022)0457),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0309/2022),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Danish Parliament, the German Bundesrat, the French Senate and the Hungarian Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

– having regard to the opinion of the European Economic and Social Committee of 14 December 2022[1],

– having regard to the opinion of the Committee of the Regions of 16 March 2023[2],

– having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 January 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the opinions of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on the Internal Market and Consumer Protection,

– having regard to the report of the Committee on Culture and Education (A9-0264/2023),

1. Adopts its position at first reading hereinafter set out[3];

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1 OJ C 100, 16.3.2023, p. 111.
2 OJ C 188, 30.5.2023, p. 79.

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

[3] This position replaces the amendments adopted on 3 October 2023 (Texts adopted, P9_TA(2023)0336).

P9_TC1-COD(2022)0277

Position of the European Parliament adopted at first reading on 13 March 2024 with a view to the adoption of Regulation (EU) 2024/… of the European Parliament and of the Council establishing a common framework for media services in the internal market and amending Directive 2010/13/EU (European Media Freedom Act)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[6],

Having regard to the opinion of the Committee of the Regions[7],

Acting in accordance with the ordinary legislative procedure[8],

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6 OJ C 100, 16.3.2023, p. 111.
7 OJ C 188, 30.5.2023, p. 79.
8 Position of the European Parliament of 13 March 2024.

Whereas:

(1) Independent media services play a unique role in the internal market. They represent a fast-changing and economically important sector and at the same time provide access to a plurality of views and reliable sources of information to citizens and businesses alike, thereby fulfilling the general interest function of 'public watchdog' ***and being an indispensable factor in the process of the formation of public opinion***. Media services are increasingly available online and across borders but are not subject to the same rules and the same level of protection in different Member States. ***While some matters related to the audiovisual media sector have been harmonised at Union level by means of Directive 2010/13/EU of the European Parliament and of the Council***[9]***, the scope and matters covered by that Directive are limited. Moreover, the radio and press sectors are not covered by that Directive, despite their increasing cross-border relevance in the internal market.***

(2) Given the unique role of media services, the protection of media freedom and media pluralism ***as two of the main pillars of democracy and of the rule of law constitutes*** an essential feature of a well-functioning internal market for media services. That market***, including audiovisual media services , radio and the press,*** has substantially changed since the beginning of the 21st century, becoming increasingly digital and international. It offers many economic opportunities but also faces a number of challenges. The Union should help the media sector ***so that it can*** seize those opportunities within the internal market, while at the same time protecting the values that are common to the Union and to its Member States, such as the protection of fundamental rights.

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9 ***Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).***

(3) In the digital media space, citizens and businesses access and consume media content ***and services***, which are immediately available on their personal devices, increasingly in a cross-border setting. ***That is the case for audiovisual*** media services, radio ***and the press, which are easily accessible through the internet, for example via podcasts or online news portals. The availability of content in a number of languages and the ease with which it can be accessed through smart devices, such as smartphones or tablets, increases the cross-border relevance of*** media ***services, as established in a judgment of the Court of Justice of the European Union***[10] ***(the 'Court of Justice'). That relevance is underpinned by the growing use and acceptance of automatic translation or subtitling tools which reduce the linguistic barriers within*** the internal market ***and the convergence of the different types of media, combining audiovisual and non-audiovisual content within the same offering***.

[10] ***Judgment of the Court of Justice of 12 December 2006,*** **Germany v Parliament and Council*****, C-380/03, ECLI:EU:C:2006:772, paragraphs 53 and 54.***

(4) However, the internal market for media services is insufficiently integrated ***and suffers from a number of market failures that have increased due to digitalisation. Firstly, global online platforms act as gateways to media content, with business models that tend to disintermediate access to media services and amplify polarising content and disinformation. Those platforms are also essential providers of online advertising, which has diverted financial resources from the media sector, affecting its financial sustainability and, consequently, the diversity of content on offer. As media services are knowledge-intensive and capital-intensive, they require scale to remain competitive, to meet their audiences' needs and to thrive in the internal market. To that end, the possibility to offer services across borders and obtain investment, including from or in other Member States, is particularly important. Secondly,*** a number of national restrictions hamper free movement within the internal market. In particular, different national rules and approaches related to media pluralism and editorial independence, insufficient cooperation between national regulatory authorities or bodies and an opaque and unfair allocation of public and private economic resources make it difficult for media market players to operate and expand across borders and lead to an uneven playing field across the Union. ***Thirdly, the good functioning*** of the internal market for media services ***is*** challenged by providers, ***including those controlled by certain third countries,*** that systematically engage in disinformation or information manipulation and interference, and ***use*** the internal market freedoms ***for abusive purposes, thus thwarting the proper functioning of market dynamics***.

(5) The fragmentation of rules and approaches which characterises the media market in the Union negatively affects, to varying degrees, the conditions for the exercise of economic activities in the internal market by media service providers in different sectors, including the audiovisual, radio and press sectors, and undermines their capability to efficiently operate across borders or establish operations in other Member States. National measures and procedures could be conducive to media pluralism in a Member State, but the divergence and lack of coordination between Member States' national measures and procedures could lead to legal uncertainty and additional costs for media undertakings willing to enter new markets and could therefore prevent them from benefitting from the scale of the internal market for media services. Moreover, discriminatory or protectionist national measures affecting the operation of media undertakings disincentivise cross-border investment in the media sector and, in some cases, could force media undertakings that are already operating in a given market to exit it. Those obstacles affect undertakings active both in the broadcasting sector, including audiovisual and radio, and the press sector. Although the fragmentation of editorial independence safeguards concerns all media sectors, it especially affects the press sector as national regulatory or self-regulatory approaches differ more in relation to the press.

(6) The internal market for media services could also be affected by insufficient tools for regulatory cooperation between national regulatory authorities or bodies. Such cooperation is key to ensuring that media market players, which are often active in different media sectors, that systematically engage in disinformation or information manipulation and interference, do not benefit from the scale of the internal market for media services. Furthermore, while a biased allocation of economic resources, in particular in the form of state advertising, is used to covertly subsidise media outlets in all the media sectors, it tends to have a particularly negative impact on the press, which has been weakened by decreasing levels of advertising revenues. The challenges stemming from the digital transformation also reduce the ability of undertakings in all media sectors, in particular the smaller ones in the radio and press sectors, to compete on a level playing field with online platforms, which play a key role in the online distribution of content.

(7) In response to challenges to media pluralism and media freedom online, some Member States have taken regulatory measures and other Member States are likely to do so. That risks furthering the divergence in national approaches and restrictions to free movement in the internal market. ***Therefore, it is necessary to harmonise certain aspects of national rules related to media pluralism and editorial independence, thereby guaranteeing high standards in that area.***

(8) Recipients of media services in the Union, namely natural persons who are nationals of Member States or benefit from rights conferred upon them by Union law and legal persons established in the Union, should be able to ▌ enjoy ***pluralistic media content produced in accordance with editorial freedom*** in the internal market. ***That is key to*** fostering ***public discourse and civic participation, as a broad range of reliable sources of information and quality journalism empowers citizens to make informed choices, including about the state of their democracies. It is also essential for cultural and linguistic diversity*** in the ***Union, given the role of media services as carriers of cultural expression. Member States should respect the right to a plurality of media content and contribute to an enabling media environment by making sure that relevant framework conditions are in place. Such an approach reflects*** the right to receive and impart information ***and the requirement to respect media freedom and media pluralism*** pursuant to Article 11 of the Charter of Fundamental Rights of the European Union (the 'Charter')***, in conjunction with Article 22 thereof, which requires the Union to respect cultural, religious and linguistic diversity. Furthermore, in fostering the cross-border flow of*** media services***, a minimum level of protection for recipients of media services should be ensured in the internal market***. In the final report of the Conference on the Future of Europe, citizens called on the Union to further promote media independence and media pluralism, in particular by introducing legislation addressing threats to media independence through Union-wide minimum standards**.**

It is thus necessary to harmonise certain aspects of national rules related to media services, also taking into consideration Article 167 of the Treaty on the Functioning of the European Union (TFEU), which reaffirms the importance of respecting the national and regional diversity of the Member States. However, Member States should have the possibility to adopt more detailed or stricter rules in specific fields, provided that those rules ensure a higher level of protection for media pluralism or editorial independence in accordance with this Regulation and comply with Union law and that Member States do not restrict the free movement of media services from other Member States which comply with the rules laid down in those fields. Member States should also retain the possibility to maintain or adopt measures to preserve media pluralism or editorial independence at national level regarding aspects not covered by this Regulation in so far as such measures comply with Union law, including Regulation (EU) 2022/2065 of the European Parliament and of the Council[11]. It is also appropriate to recall that this Regulation respects the Member States' responsibilities as referred to in Article 4(2) of the Treaty on European Union (TEU), in particular their powers to safeguard essential state functions.

[11] ***Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).***

(9) For the purposes of this Regulation, the definition of media service should be limited to services as defined by the TFEU and, therefore, should cover any form of economic activity. ***The definition of media service should cover, in particular, television or radio broadcasts, on-demand audiovisual media services, audio podcasts or press publications.*** It should exclude user-generated content uploaded to an online platform unless it constitutes a professional activity normally provided for consideration, be it of a financial or other nature. It should also exclude purely private correspondence, such as e-mails, and all services that do not have the provision of programmes or press publications as their principal purpose, meaning where the content is merely incidental to the service and not its principal purpose, such as advertisements or information related to a product or a service provided by websites that do not offer media services. ***Corporate communication and distribution of informational or promotional materials for public or private entities*** should ***be excluded from the scope of the definition. Furthermore***, ***since the operation of*** media ***service providers in the internal market can take different forms, the definition of media service provider should cover a wide spectrum of professional media actors falling within*** the scope of the definition of media service***, including freelancers***.

(10) Public service media providers should be understood to be those concurrently entrusted with a public service remit and receiving public funding for the fulfilment of that remit. That should not cover private media undertakings that have agreed to carry out, as a limited part of their activities, certain specific tasks of general interest in return for payment.

(11) In the digital media market, video-sharing platform providers or providers of very large online platforms could fall under the definition of media service provider. In general, such providers play a key role in the organisation of content, including by automated means or by means of algorithms, but do not exercise editorial responsibility over the content to which they provide access. However, in the increasingly convergent media environment, some video-sharing platform providers or providers of very large online platforms have started to exercise editorial control over a section or sections of their services. Therefore, ***where such providers exercise editorial control over a section or sections of their services, they*** could be qualified as both a video-sharing platform provider or a provider of a very large online platform and a media service provider.

(12) The definition of audience measurement should cover measurement systems developed as agreed by industry standards within self-regulatory organisations, like the Joint Industry Committees, and measurement systems developed outside self-regulatory approaches. The latter tend to be used by certain online players***, including online platforms,*** that self-measure or provide their proprietary audience measurement systems to the market ***without abiding*** by the commonly agreed industry standards ***or best practices***. Given the significant impact that such audience measurement systems have on the advertising and media markets, they should be covered by this Regulation. ***In particular, the capacity to provide access to media content and the ability to target their users with advertising allow online platforms to compete with the media service providers whose content they distribute. Thus, the definition of audience measurement should be understood as including measurement systems that enable the collection, interpretation or other processing of information about the use of media content and content created by users on online platforms that are primarily used to access such content. That would ensure that providers of audience measurement systems that are intermediaries involved in content distribution are transparent about their audience measurement activities, fostering the ability of media service providers and advertisers to make informed choices.***

(13) State advertising as defined in this Regulation should be understood broadly as covering promotional or self-promotional activities***, public announcements or information campaigns*** undertaken by, for or on behalf of a wide range of public authorities or entities, including ***national or subnational*** governments, regulatory authorities or bodies and ***entities controlled by national or subnational governments. Such control can result from rights, contracts or any*** other ***means which confer the possibility of exercising a decisive influence on an entity. In particular, ownership of capital or the right to use all or part of the assets of an entity, or rights or contracts which confer a decisive influence on the composition***, ***voting or decisions of the organs of an entity are relevant factors, as laid down in Article 3(2) of Council Regulation (EC) No 139/2004***[12]. However, the definition of state advertising should not include ***official announcements that are justified by an overriding reason of public interest, such as*** emergency messages by public authorities or entities which are necessary, for example, in cases of natural disasters or health crises, accidents or other sudden incidents that can cause harm to individuals. ***When the emergency situation has ended, announcements pertaining to that emergency which are placed, promoted, published or disseminated in return for payment or for any other consideration should be considered state advertising.***

[12] ***Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).***

(14) In order to ensure that society reaps the benefits of the internal market for media services, it is essential not only to guarantee the fundamental freedoms under the Treaties, but also the legal certainty which ***is needed for the enjoyment of benefits of an integrated and developed market. In a well-functioning internal market, recipients of media services*** should ***be able to access*** quality media services which have been produced by journalists ▌ in an independent manner and in line with ***ethical and*** journalistic standards and which, therefore, provide trustworthy information. ***That is particularly relevant for news and current affairs content, which comprises a wide category of content of political, societal or cultural interest at local, national or international level.*** News and current affairs content ***has the potential to play a major role in shaping public opinion and has a direct impact on democratic participation and societal well-being. In that context, news and current affairs content should be understood as covering any type of news and current affairs content, regardless of the form it takes. News and current affairs content can reach audiences in diverse formats, such as documentaries, magazines or talk-shows, and can be disseminated in diverse ways, including by uploading it to online platforms.*** Quality media services are also an antidote against disinformation and foreign information manipulation and interference. ***Access to such services should also be ensured by preventing attempts to silence journalists, ranging from threats and harassment to censorship and cancelling of dissenting opinions, which could limit the free flow of information into the public sphere by reducing the quality and plurality of information. The right to a plurality of media content does not entail any corresponding obligation on any given media service provider to adhere to standards not set out explicitly by law.***

(15) This Regulation does not affect the freedom of expression ***and information*** guaranteed to individuals under the Charter. The European Court of Human Rights has observed that in such a sensitive sector as the audiovisual media sector, in addition to its negative duty of ***non-interference***, the public powers have a positive obligation to put in place an appropriate legislative and administrative framework to guarantee effective media pluralism[13].

(16) The free flow of trustworthy information is essential in a well-functioning internal market for media services. Therefore, the provision of media services should not be subject to any restrictions contrary to this Regulation or other rules of Union law, such as Directive 2010/13/EU ▌, which provide for measures necessary to protect users from illegal and harmful content. Restrictions could also derive from measures applied by national public authorities in compliance with Union law.

(17) The protection of editorial independence is a precondition for exercising the activity of media service providers and their professional integrity ***in a safe media environment***. Editorial independence is especially important for media service providers which provide news and current affairs content, given its societal role as a public good. Media service providers should be able to exercise their economic activities freely in the internal market and compete on an equal footing in an increasingly online environment where information flows across borders.

[13] ***Centro Europa 7 S.R.L. and Di Stefano v. Italy [GC], no 38433/09, § 134, ECHR 2012.***

(18) Member States have taken different approaches to the protection of editorial ***freedom and editorial*** independence, which is increasingly being challenged across the Union. In particular, there is a growing interference with the editorial decisions of media service providers in several Member States. Such interference can be direct or indirect, from the state or other actors, including public authorities, elected officials, government officials and politicians, for example to obtain a political advantage. Shareholders and other private parties who have a stake in media service providers might act in ways which go beyond the necessary balance between their own business freedom and the freedom of expression, on the one hand, and editorial freedom of expression and the information rights of users, on the other hand, in pursuit of an economic or other advantage***. Given the societal role of the media, such undue interference could negatively affect the public opinion-forming process***. Moreover, recent trends in media distribution and consumption, including, in particular, in the online environment, have prompted Member States to consider laws which aim to regulate the provision of media content. Approaches taken by media service providers to guarantee editorial independence also vary. As a result of such interference and fragmentation of regulation and approaches, the conditions for the exercise of economic activities by media service providers and, ultimately, the quality of media services received by citizens and businesses are negatively affected in the internal market. It is thus necessary to put in place effective safeguards enabling the exercise of editorial freedom across the Union so that media service providers can independently produce and distribute their content across borders and recipients of media services can receive such content.

(19) Journalists and editors are the main actors in the production and provision of trustworthy media content, in particular by reporting on news or current affairs. ***Sources are tantamount to 'raw material' for journalists: they are the basis for the production of media content, in particular news and current affairs content.*** It is ▌ therefore ***crucial*** that journalists' ability to collect, fact-check and analyse information be protected, ***in particular*** information imparted ***or communicated*** confidentially***, both offline and online, which relates to or is capable of identifying journalistic sources.*** Media service providers and ***their editorial staff, in particular*** journalists, including those operating in non-standard forms of employment, such as freelancers, should be able to rely on a robust protection of journalistic sources and ***confidential*** communications, including protection against ***undue interference and the*** deployment of surveillance technologies***.*** Without such protection***, the free flow of*** sources ***to media service providers*** could be deterred ***and, thus, the free exercise of the economic activity by*** media ***service providers could be hindered to the detriment of the provision of information to*** the public***, including*** on matters of public interest. As a result, journalists' freedom to exercise their economic activity and fulfil their vital 'public watchdog' role could be ***jeopardised by such obstacles***, thus affecting access to quality media services negatively.

(20) ***In order to avoid circumvention of*** the protection of journalistic sources ***and confidential communications and guarantee adequate respect for one's private and family life, home and communications in accordance with the Charter, safeguards should also apply to persons who, because of their regular private or professional relationship with media service providers or members of their editorial staff, are likely to have information that could identify journalistic sources or confidential communications.***

That should include persons living in a close relationship in a joint household and on a stable and continuous basis and persons who are or have been professionally involved in the preparation, production or dissemination of programmes or press publications and who are only targeted due to their close links with media service providers, journalists or other members of the editorial staff. The protection of journalistic sources and confidential communications should also benefit the staff of media service providers, such as the technical staff, including cybersecurity experts, who could be targeted given the important support role they provide to journalists in their daily work, which requires solutions to ensure the confidentiality of journalists' work, and the resulting likelihood that they have access to information concerning journalistic sources or confidential communications.

(21) ***Protecting journalistic sources and confidential communications is consistent with and*** contributes to the protection of the fundamental right enshrined in Article 11 of the Charter. ***It is also crucial for safeguarding the 'public watchdog' role of media service providers and, in particular investigative journalists in democratic societies and for upholding the rule of law. In light thereof, ensuring an adequate level of protection for journalistic sources and confidential communications requires that measures for obtaining such information be authorised by an authority that can independently and impartially assess whether it is justified by an overriding reason of public interest, such as a court, a judge, a prosecutor acting in a judicial capacity, or another such authority with competence to authorise those measures in accordance with national law.***

It also requires that surveillance measures be subject to regular review by such an authority to ascertain whether the conditions justifying the use of the measure in question continue to be fulfilled. That requirement is also met where the purpose of the regular review is to verify whether the conditions justifying an extension of the authorisation for the use of the measure have been fulfilled.

(22) It should also be recalled that, in line with the established case law of the European Court of Human Rights, the right to effective judicial protection presupposes, in principle, being informed in due time, without jeopardising the effectiveness of ongoing investigations, of the surveillance measures taken without the knowledge of the person concerned in order to effectively exercise that right. In order to further strengthen that right, it is important that media service providers, journalists and persons who have a regular or professional relationship with them are able to rely on an adequate assistance when they exercise that right. Such assistance could be of legal, financial or other nature, for example providing information on available judicial remedies. Such assistance could be effectively provided, for example, by an independent authority or body or, where no such authority or body exists, a self-regulatory body or mechanism. It is not the purpose of this Regulation to harmonise the concepts of 'detain', 'inspect', 'search and seizure' or 'surveillance'.

(23) The protection of journalistic sources ***and confidential communications*** is currently regulated heterogeneously in the Member States. Some Member States provide an absolute protection against coercing journalists to disclose in criminal and administrative proceedings information that identifies their source***, including communications that are held under a commitment of confidentiality***. Other Member States provide a qualified protection confined to judicial proceedings based on certain criminal charges, while others provide protection in the form of a general principle. That leads to fragmentation in the internal market for media services ***and uneven standards of protection for journalistic sources and confidential communications across the Union. To that end, this Regulation introduces common minimum standards of protection for journalistic sources and confidential communications with regard to coercive measures used by Member States to obtain such information. For the purpose of ensuring the effective protection of journalistic sources and confidential communications, Member States should not take such measures, including the deployment of intrusive surveillance software, in relation to media service providers, their editorial staff or any persons who, because of their regular or professional relationship with a media service provider or its editorial staff, might have information related to or capable of identifying journalistic sources or confidential communications.***

(24) Media professionals, in particular journalists and other media professionals involved in editorial activities, work increasingly on cross-border projects and provide their services to cross-border audiences and, by extension, to media service providers***. As a result, media service providers*** are likely to face barriers, legal uncertainty and uneven conditions of competition. Therefore, the protection of journalistic sources and ***confidential*** communications requires harmonisation and further strengthening at Union level. ***That should be without prejudice to further or absolute protection at national level.***

(25) Intrusive surveillance software, including, in particular, what is commonly referred to as 'spyware', represents a particularly invasive form of surveillance over media professionals and their sources. It can be deployed to secretly record calls or otherwise use the microphone of an end-user device, film or photograph natural persons, machines or their surroundings, copy messages, access encrypted content data, track browsing activity, track geolocation or collect other sensor data, or track activities across multiple end-user devices. It has dissuasive effects on the free exercise of economic activities in the media sector. It jeopardises, in particular, the trusted relationship of journalists with their sources, which is the core of the journalistic profession. Given the digital and intrusive nature of such software and the use of devices across borders, it has a particularly detrimental impact on the exercise of economic activities by media service providers in the internal market. It is therefore necessary to ensure that media service providers, including journalists, operating in the internal market for media services can ***rely on robust harmonised protection in relation to the deployment of intrusive surveillance software in the Union, including where Member State authorities resort to private parties to deploy it.***

(26) Intrusive surveillance software should only be deployed where it is justified by an overriding reason of public interest, it is provided for in Union or national law, it is in compliance with Article 52(1) of the Charter as interpreted by the Court of Justice and with other Union law, it has been authorised ex ante or, in exceptional and urgent cases, subsequently confirmed by a judicial authority or an independent and impartial decision-making authority, it occurs in investigations of offences listed in Article 2(2) of Council Framework Decision 2002/584/JHA14 punishable in the Member State concerned by a custodial sentence or a detention order of a maximum period of at least three years or in investigations of other serious offences punishable in the Member State concerned by a custodial sentence or a detention order of a maximum period of at least five years, as determined by the national law of that Member State, and provided that no other less restrictive measure would be adequate and sufficient to obtain the information sought. According to the principle of proportionality, limitations can be made to an individual's rights and freedoms only if they are necessary and genuinely meet objectives of general interest recognised by the Union. Thus, as regards specifically the deployment of intrusive surveillance software, it is necessary to ascertain whether the offence in question attains a threshold of seriousness as laid down in this Regulation, whether, following an individual assessment of all the relevant circumstances in a given case, the investigation and prosecution of that offence merit the particularly intrusive interference with fundamental rights and economic freedoms consisting in the deployment of intrusive surveillance software, whether there is sufficient evidence that the offence in question has been committed, and whether the deployment of intrusive surveillance software is relevant for the purpose of establishing the facts related to the investigation and prosecution of that offence.

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14 ***Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).***

(27) Public service media providers play a particular role in the internal market for media services by ensuring that citizens and businesses have access to ***a diverse content offering, including*** quality information and impartial ***and balanced*** media coverage, as part of their ***remit as defined at national level in line with Protocol No 29 on the system of public broadcasting in the Member States, annexed to the TEU and the TFEU. They play an important role in upholding the fundamental right to freedom of expression and information, enabling people to seek and receive diverse information, and in promoting the values of democracy, cultural diversity and social cohesion. They provide a forum for public discussion and a means of promoting the broader democratic participation of citizens. The independence of public service media providers is key during electoral periods to ensure that citizens have access to impartial quality information***. However, public service media providers can be particularly exposed to the risk of interference, given their institutional proximity to the state and the public funding they receive. That risk ***is*** exacerbated by uneven safeguards related to ***balanced coverage by and independent governance of*** public service media providers ***in*** the Union. ***Both the communication from the Commission of 13 July 2022 entitled '2022 Rule of Law Report' and the 2022*** Media ***Pluralism Monitor by the Centre for Media Pluralism and*** Media ***Freedom confirm the fragmentation of such safeguards and point to risks stemming from inadequate funding. As shown*** by the ***European Audiovisual Observatory in its 2022 report entitled 'Governance and independence of public service media', guarantees*** for the independent functioning of public service media providers ***vary*** across the Union***, with differences in their scope and the level of detail in national approaches.***

(28) ***Legal frameworks to ensure balanced coverage by public service media providers vary across the Union. Moreover, rules vary across the Union as regards the appointment and dismissal of the management of*** public service media***. For instance, while most national legal orders set out several grounds for dismissal, others do not provide for any specific rules. Where rules exist, they are, in some cases, insufficient or are not effective in practice. There are also cases where legislative reforms in Member States have increased governmental control of*** public service ***media, including as regards the appointment of heads or members of the management board of*** public service media***. Approaches to ensuring the adequacy and predictability of funding for public service media providers also diverge across the Member States. Where safeguards*** do not ***exist or are insufficient, there are risks of political interference in the editorial line or governance*** of public service media***. Not having safeguards for the independence of public service media providers or having insufficient ones could also lead to a lack of stability in funding, thus exposing public service media providers to the risk of political control or further political control. That could lead to cases of partial reporting or biased media coverage by*** public ***service media providers, instances of interference by the government in the appointment or dismissal of their management or arbitrary adjustments to or the unstable funding of public service media providers. All of that negatively affects the access to independent and impartial media services, thereby affecting the right to freedom of expression as enshrined in Article 11 of the Charter, and could lead to a distortion of competition in the internal market for media services, including for media service providers established in other Member States***.

(29) ***In national media environments characterised by a co-existence of public and private media service providers, public service media providers contribute to the promotion of media pluralism and foster competition in the media sector by producing a wide range of content that caters to various interests, perspectives and demographics and by offering alternative viewpoints and programming options, which provides a rich and unique offering. Public service media providers compete with private media undertakings and online platforms, including those established in other Member States, for audiences and, where applicable, for advertising resources. That concerns commercial broadcasters in both the audiovisual and radio sectors and publishers, and is particularly true in the current digital media environment in which all media expand into the online sphere and increasingly provide their services across borders. Where such a dual and competitive media market, which is distinctive for large parts of the Union, is functioning well, it ensures a diverse and qualitative supply of media services in all sectors. However, where public funding does not serve to fulfil the remit benefitting all viewers but, instead, serves partisan views, due to political interference in governance or the editorial line, it could affect trading conditions and competition in the Union to an extent contrary to the common interest. The Court of First Instance has confirmed that public service broadcasting can have its state funding declared compliant with the provisions of the TFEU on State aid only inasmuch as the qualitative requirements set out in the public service remit are complied with***[15]**.**

[15] ***Judgment of the Court of First Instance of 26 June 2008,*** **SIC v. Commission,** ***T-442/03, ECLI:EU:T:2008:228, paragraph 211.***

(30) ***While the risk of what is commonly referred to as 'media capture' is relevant for the entire market for media services, public service media providers are particularly exposed to such a risk, given their proximity to the state. Diverging or insufficient safeguards for the independent functioning of public service media providers could prevent or disincentivise media service providers from other Member States from operating in or entering a given media market. While independent media undertakings invest their resources in high-quality reporting which complies with journalistic standards, certain 'captured' public service media providers which do not comply with such standards could provide imbalanced reporting, while being subsidised by the state. The competitive advantage that independent media can obtain through independent reporting could be lessened as 'captured' public service media providers might unduly retain their market position. Politicised media markets can affect advertising markets as a whole because businesses have to factor in politics in addition to devising effective advertising campaigns. If public service media providers, which are usually considered as trusted sources of information, provide biased coverage on the political or economic situation or concerning specific economic actors as a result of being captured, that might also reduce the ability of undertakings to inform themselves properly about the economic situation in a given market and, therefore, their ability to take informed business decisions. Such capture could therefore adversely impact the functioning of the internal market. Finally, as a result of biased reporting by certain 'captured' public service media providers in some Member States, citizens might turn to alternative sources of information, in particular those available on online platforms, which might further weaken the level playing field in the internal market.***

(31) It is thus necessary that Member States, building on the international standards developed by the Council of Europe in that regard, put in place effective legal safeguards for the independent functioning of public service media providers across the Union, free from governmental, political, economic or private interests, without prejudice to national constitutional law consistent with the Charter. That should include principles suited to the ways in which Member States organise their public service media, such as those that exist in national administrative law frameworks or national corporate law frameworks as applicable to private listed undertakings, as regards the appointment and dismissal of the persons or bodies which have a role in determining editorial policies or constitute the highest decision-making authority in that respect within the public service media provider. Those principles should be set out at national level. It is also necessary to guarantee that, without prejudice to the application of the Union's State aid rules, public service media providers benefit from transparent and objective funding procedures which guarantee adequate and stable financial resources for the fulfilment of their public service remit, enable predictability in their planning processes and allow them to develop within their public service remit. Such funding should be preferably decided and appropriated on a multi-year basis, in line with the public service remit of public service media providers, in order to avoid the risk of undue influence from yearly budget negotiations. This Regulation does not affect the competence of Member States to provide for the funding of public service media providers as enshrined in Protocol No 29.

(32) It is crucial that recipients of media services know with certainty who owns and is behind the ▌ media so that they can identify and understand potential conflicts of interest. That is a prerequisite for forming well-informed opinions and, consequently, for actively participating in a democracy. Such transparency is also an effective tool to ***disincentivise and thus to*** limit the risk of interference with editorial independence. ***Furthermore, it contributes to an open and fair market environment and enhances media accountability vis-à-vis the recipients of media services, ultimately contributing to the quality of media services in the internal market.*** It is thus necessary to introduce common information requirements for ▌ media service providers across the Union. Those requirements should include proportionate ***and targeted*** requirements that media service providers disclose ***relevant information on their*** ownership ***and the advertising revenues received from public authorities or entities. Such*** information ***is necessary so that the recipients of media services can understand and are able to enquire about potential conflicts of interest, including where media owners are politically exposed, as a pre-condition for their ability to assess the reliability of the information they receive. That can only be achieved if the recipients of media services have up-to-date media ownership information at their disposal in a user-friendly manner, in particular at the time they view, listen to or read media content, so that they can put the content in the right context and form the right impression of it.***

Thus, the disclosure of targeted media ownership information would produce benefits clearly outweighing any possible impact of the disclosure obligation on fundamental rights, including the right to private and family life and the right to protection of personal data. In that context, the measures taken by Member States under Article 30(9) of Directive (EU) 2015/849 of the European Parliament and of the Council[16] should not be affected. The required information should be disclosed by the relevant media service providers ***in an electronic format, for instance*** on their websites***,*** or another medium that is easily and directly accessible.

(33) To further contribute to a high level of media ownership transparency, Member States should also entrust national regulatory authorities or bodies, or other competent authorities and bodies, with developing media ownership databases. Such databases should work as a one-stop shop allowing recipients of media services to easily check the relevant information related to a given media service provider. In view of national administrative specificities and with a view to reducing the administrative burden, Member States should have flexibility in deciding which authority or body will be in charge of developing such media ownership databases. That could be, for instance, a national regulatory authority or body, or another administrative body, which could in turn rely on the assistance of another body with relevant expertise for the fulfilment of the task.

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16 ***Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).***

(34) Media integrity also requires a proactive approach to promoting editorial independence by ***media undertakings providing news and current affairs content***, in particular by means of internal safeguards. Media service providers should adopt proportionate measures to guarantee ▌ the freedom of editors to take ***editorial*** decisions ***within the established long-term editorial line of the media service provider***. The objective to shield ***editorial decisions, in particular those taken by editors-in-chief and editors,*** on specific pieces of content ***from undue interference*** contributes to ensuring a level playing field in the internal market for media services and the quality of such services. ***Those measures should aim to ensure the respect for independence standards throughout the entire editorial process within the media, including with a view to safeguarding the integrity of journalistic content.*** That objective is also in compliance with the fundamental right to receive and impart information under Article 11 of the Charter. In view of those considerations, media service providers should also ensure the transparency of actual or potential conflicts of interest ***vis-à-vis*** the recipients of their media services.

(35) ***Media service providers*** should ***adopt*** internal safeguards with a view to guaranteeing the independence of ▌ editorial decisions ***tailored to*** their ***size, structure and needs***. Commission Recommendation (EU) 2022/1634[17] provides a catalogue of voluntary internal safeguards that media undertakings can adopt in that regard. ***This*** Regulation should not be construed as depriving the owners of private media service providers of their prerogative to set strategic or general goals or to foster the growth and financial viability of their undertakings. In that respect, this Regulation ***should recognise*** that the goal of fostering editorial independence needs to be reconciled with the legitimate rights and interests of private media owners***, such as the right to determine the editorial line of the media service provider and to shape the composition of their editorial teams***.

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17 Commission Recommendation (EU) 2022/1634 of 16 September 2022 on internal safeguards for editorial independence and ownership transparency in the media sector (OJ L 245, 22.9.2022, p. 56).

(36) Independent national regulatory authorities or bodies are key to the proper application of media law across the Union. ***While*** national regulatory authorities or bodies ***often do not have competence related to the press sector, they*** are best placed to ensure the correct application of the requirements related to regulatory cooperation and a well-functioning market for media services ***in general***, ***as*** envisaged in ▌ this Regulation. ***National regulatory authorities or bodies should have the resources necessary for the fulfilment of their tasks in terms of staffing, expertise and financial means, including to enable their participation in the activities of the European Board for Media Services (the 'Board'). They should be provided with technical resources, for instance relevant digital tools. Where appropriate, Member States should, to the extent necessary, increase the resources allocated to national regulatory authorities or bodies, taking into account the additional tasks conferred upon them under this Regulation. National regulatory authorities or bodies should also have appropriate powers, in particular to request information and data from any natural or legal person to which*** this Regulation ***applies or which, for purposes related to their trade, business or profession, might reasonably be in possession of the information and data needed, in respect of the rights and interests of such persons***.

(37) In order to ensure that this Regulation and other Union media law is consistently applied, it is necessary to set up the Board as an independent advisory body at Union level gathering national regulatory authorities or bodies and coordinating their actions. In the performance of its tasks and the exercise of its powers, the Board should be fully independent, including from any political or economic influence, and neither seek nor take instructions from any government, institution, whether national, supranational or international, or any public or private person or body. The European Regulators Group for Audiovisual Media Services (ERGA), established by Directive 2010/13/EU, has been essential in promoting the consistent implementation of that Directive. The Board should therefore build on ERGA and replace it. That requires a targeted amendment of Directive 2010/13/EU to delete Article 30b thereof, which establishes ERGA, and, as a consequence, to replace references to ERGA and its tasks. The amendment of Directive 2010/13/EU by this Regulation is justified as it is limited to provisions which do not need to be transposed by Member States and is addressed to the institutions of the Union.

(38) The Board should bring together senior representatives of the national regulatory authorities or bodies. The national regulatory authorities or bodies should appoint those representatives. Where Member States have several relevant national regulatory authorities or bodies, including at regional level, a joint representative should be chosen by means of appropriate procedures and the right to vote should remain limited to one representative per Member State. ***For the purposes of their activities within the Board, national regulatory authorities or bodies should be able to consult and coordinate with relevant competent authorities or bodies and, where relevant, with self-regulatory bodies in their Member States.*** That should not affect the possibility for the other national regulatory authorities or bodies to participate, as appropriate, in the meetings of the Board. The Board should also be able to invite***, on a case-by-case basis, external experts*** to attend its meetings***. It should also be able to designate***, in agreement with the Commission, ***permanent observers to attend its meetings***, including, in particular, national regulatory authorities or bodies from candidate countries or potential candidates ▌, or ad hoc delegates from other competent national authorities.

(39) Due to the sensitivity of the media sector and following the practice regarding ERGA decisions as set out in its rules of procedure, the Board should adopt its decisions on the basis of a two-thirds majority of the votes. ***The Board's rules of procedure should specify, in particular, the role, tasks and appointment procedures of the Chair and the Vice-Chair and arrangements for the prevention and management of conflicts of interest of the members of the Board. To support the Chair and the Vice-Chair, the Board should be able to set up a Steering Group. The composition of the Steering Group should take into account the principle of geographical balance. The Board should specify the specific arrangements for the Steering Group in its rules of procedure. The ERGA Chair and Vice-Chair, advised by the members of the ERGA Board, should facilitate an orderly, transparent and effective transition from ERGA to the Board, until the Chair and Vice-Chair of the Board are elected.***

(40) Where the Board deals with matters beyond the audiovisual media sector, it should rely on an effective consultation mechanism involving stakeholders from the relevant media sectors active both at Union and national level. Such stakeholders could include press councils, journalistic associations, trade unions and business associations. The Board should give such stakeholders the possibility to draw its attention to the developments and issues relevant to their sectors. The consultation mechanism should enable the Board to gather targeted input from the relevant stakeholders and obtain relevant information supporting its work. When establishing the arrangements for the consultation mechanism in its rules of procedure, the Board should take into account the need for transparency, diversity and fair geographical representation. The Board should also be able to consult academia in order to gather additional relevant information.

(41) Without prejudice to the powers granted to the Commission by the Treaties, it is essential that the Commission and the Board ***cooperate closely, enabling the Board to advise and support the Commission on matters related to media services within its competence.*** The Board should actively support the Commission in its tasks of ensuring the consistent and effective application of this Regulation and the ***implementation of*** Directive 2010/13/EU. For that purpose, the Board should, in particular, advise and assist the Commission on regulatory, technical or practical aspects relevant to the application of Union law, promote cooperation and the effective exchange of information, experience and best practices and draw up opinions ***in the cases provided for in this Regulation, taking into account, where relevant, the situation regarding media freedom and media pluralism in the media markets concerned. Such opinions should not be legally binding but should serve as useful guidance for the national regulatory authorities or bodies concerned and could be taken into account by the Commission in its tasks of ensuring the consistent and effective application of*** this Regulation ***and the implementation of Directive 2010/13/EU. By making their best effort to implement the opinion of the Board or by properly explaining any deviation therefrom, national regulatory authorities or bodies should be considered to have done their utmost to take the opinion of the Board into account***.

(42) In order to effectively ***and independently*** fulfil its tasks, the Board should be ***assisted by a secretariat devoted to the activities of the Board. The Commission should provide the secretariat. The secretariat should be adequately resourced for the performance of its tasks. Without prejudice to the Commission's institutional and budgetary autonomy, it is important that the Commission take into account the needs communicated by the Board, in particular in relation to the qualifications, expertise and profile of the secretariat's staff for the effective performance of its tasks. The secretariat should also be*** able to rely on the expertise and ▌ resources of ***national regulatory authorities or bodies. That would be key to assisting the Board when it is preparing its deliverables. Therefore, the*** secretariat ***should include an appropriate number of staff seconded by national regulatory authorities or bodies in order to benefit from their skills and experience. In its mission of contributing to the independent execution of the tasks of the Board, the secretariat should follow only the instructions of the Board when supporting the Board in the fulfilment of its tasks under this Regulation. The*** secretariat should provide ***substantive,*** administrative and organisational support to the Board and ***assist*** the Board ***when it is*** carrying out its tasks***, in particular by conducting relevant research or carrying out information-gathering activities***.

(43) Regulatory cooperation between independent media regulatory authorities or bodies is essential to making the internal market for media services function properly. However, Directive 2010/13/EU does not provide for a structured cooperation framework for national regulatory authorities or bodies. Since the revision of the Union framework for audiovisual media services by means of Directive (EU) 2018/1808 of the European Parliament and of the Council[18], which extended its scope to video-sharing platforms, there has been an ever-increasing need for close cooperation among national regulatory authorities or bodies, in particular to resolve cross-border cases. Such a need is also justified in view of the new challenges in the Union media environment that this Regulation seeks to address, including by entrusting national regulatory authorities or bodies with new tasks.

[18] Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (OJ L 303, 28.11.2018, p. 69).

(44) ***Aware of those challenges and in order to respond to the need for closer cooperation in the field of audiovisual*** media ***services, in 2020, ERGA agreed on a Memorandum of Understanding which set out non-binding mechanisms for cross-border cooperation to strengthen the application of Union*** rules ***relevant for audiovisual*** media ***services and video-sharing platform services. Building on that voluntary framework and in order to ensure the effective enforcement of Union media law,*** to avoid the raising of additional barriers in the internal market for media services ***and to prevent the possible circumvention of the applicable rules by rogue media service providers***, it is essential to provide for a clear, legally binding framework for national regulatory authorities or bodies to cooperate effectively and efficiently ***with one another within the established legal framework. Such a framework is crucial for upholding the country of origin principle, which is a cornerstone of Directive 2010/13/EU, and for ensuring that national regulatory authorities or bodies are able to exercise oversight over relevant media service providers. The objective should be to ensure the consistent and effective application of this Regulation and the implementation of Directive 2010/13/EU, for instance by ensuring a smooth exchange of information between national regulatory authorities or bodies or enabling queries related to jurisdiction issues to be quickly addressed. Where national regulatory authorities or bodies exchange information, all relevant Union and national law on the exchange of information, including relevant data protection law, should be respected. Such cooperation and, in particular accelerated cooperation is of key relevance to support actions to protecting the internal market from rogue media service providers, while ensuring compliance with fundamental rights, in particular the freedom of expression. In particular, accelerated cooperation is needed to prevent media services which have been suspended in certain Member States under Article 3(3) and (5) of Directive 2010/13/EU from continuing to be provided via satellite or other means in those Member States and thus to contribute, in compliance with Union law, to the 'effet utile' of the relevant national measures. The opinions of the Board will be important for the effective functioning of the cooperation mechanism***.

(45) Due to the pan-European nature of video-sharing platforms, national regulatory authorities or bodies need to have a dedicated tool to protect ***users*** of video-sharing platform services from certain illegal and harmful content, including commercial communications. In particular, ***without prejudice to the country of origin principle,*** a mechanism is needed to allow any relevant national regulatory authority or body to request its ***counterpart*** to take necessary and proportionate actions to ensure the enforcement of obligations ***on video-sharing platform providers*** under ***Article 28b(1), (2) and (3) of Directive 2010/13/EU. That is key to ensuring that audiences and, in particular, minors are effectively protected across the Union when accessing content on video-sharing platforms and that they can rely on an appropriate level of transparency when it comes to online commercial communications. Mediation provided by and opinions of the Board would be conducive to ensuring mutually acceptable and satisfactory results for the national regulatory authorities or bodies concerned***. Where the use of such a mechanism does not lead to an amicable solution, the freedom to provide information society services from another Member State can be restricted only where the conditions set out in Article 3 of Directive 2000/31/EC of the European Parliament and of the Council[19] have been fulfilled and the procedure set out therein has been followed.

[19] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') (OJ L 178, 17.7.2000, p. 1).

(46) It is essential to ensure consistent regulatory practice, ***the consistent and effective application of*** this Regulation and ***the implementation of*** Directive 2010/13/EU. For that purpose and to contribute to ensuring a convergent implementation of Union media law, the Commission should be able, when needed, to issue guidelines on ***cross-border*** matters covered by both this Regulation and Directive 2010/13/EU. When deciding whether to issue guidelines ***and in light of the relevant discussions with the contact committee established by Directive 2010/13/EU for matters related to that Directive, the Commission should consider,*** in particular, ***regulatory issues which affect a significant number of Member States or regulatory issues with a cross-border element***. In view of the abundance of information and the increasing use of digital means to access the media, it is important that prominence be ensured for content of general interest in order to help achieve a level playing field in the internal market and compliance with the fundamental right to receive information under Article 11 of the Charter ▌. Given the possible impact of the national measures taken under Article 7a ***of Directive 2010/13/EU*** on the functioning of the internal market for media services, guidelines by the Commission would be important to achieve legal certainty in that field. It would also be useful to provide guidance on measures taken under Article 5(2) of Directive 2010/13/EU to ensure the public availability of accessible, accurate and up-to-date information related to media ownership and on the duty of media service providers to make certain up-to-date information easily and directly accessible to the recipients of their services. When preparing its guidelines, the Commission should be assisted by the Board. The Board should, in particular, share its regulatory, technical and practical expertise regarding the areas and topics covered by the relevant guidelines with the Commission.

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(47) ***National*** regulatory authorities or bodies have specific practical expertise that allows them to effectively balance the interests of the media service providers and recipients of media services, while ensuring respect for the freedom of expression ***and safeguarding and promoting media pluralism***. That is key when it comes, in particular, to protecting the internal market from media ***services from*** outside the Union***, irrespective of the means by which they are distributed or accessed,*** that target ***or reach*** audiences in the Union where, inter alia in view of the control that could be exercised by third countries over them, they could prejudice or pose a risk of prejudice to public security***. A risk of prejudice to*** public security ***could relate to a public provocation to commit a terrorist offence, as set out in*** Article ***5*** of Directive (EU) ***2017/541*** of the European Parliament and of the Council[20]***, and systematic international campaigns of foreign information manipulation and interference with a view to destabilising the Union as a whole or particular Member States. In that regard***, ***the coordination between national regulatory authorities or bodies to face together possible*** public security ***threats stemming from such media services needs to be strengthened and given a legal framework to ensure the effectiveness and possible coordination*** of the ***national measures adopted in accordance with*** Union ***media law***.

[20] Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

(48) It is necessary to coordinate the national measures that could be adopted to counter public security threats by media services originating from or established outside of the Union and targeting audiences in the Union, including the possibility for the Board, in consultation with the Commission, to issue opinions on such measures, as appropriate, in particular where a situation affects several Member States. In that regard, risks to public security need to be assessed in light of all relevant factual and legal elements, at Union and national level, including any existing assessments of how the media service concerned is disseminated or received on the territory of the Union. The objective should be to allow for a more coordinated approach for the national regulatory authorities or bodies concerned in relation to restrictions on the distribution of such media services, without prejudice to the competence of Member States or their national regulatory authorities or bodies in accordance with Union law. In that regard, the national regulatory authorities or bodies concerned should be able to take into account the opinions of the Board when considering taking measures against a media service provider. That is without prejudice to the competence of the Union under Article 215 TFEU.

(49) ***In order to further support national regulatory authorities or bodies in their role of protecting the internal*** market for media services ***from rogue media service providers, the Board should draw up a list of criteria concerning media service providers established or originating from outside of the Union. Such a list would help the national regulatory authorities or bodies concerned in situations where a relevant media service provider seeks jurisdiction in a Member State or where a media service provider already under the jurisdiction of a Member State appears to pose a serious and grave risk to public security. Elements to be covered in such a list could concern, inter alia, ownership, management, financing structures, editorial independence from third countries or adherence to co-regulatory or self-regulatory mechanisms governing editorial standards in one or more Member States.***

(50) Very large online platforms act for many users as a gateway for providing access to media content and media services. Media service providers that exercise editorial responsibility over their content play ***a key*** role in the distribution of information and in the exercise of the right to receive and impart information online. When exercising such editorial responsibility, media service providers are expected to act diligently and provide information that is trustworthy and respectful of fundamental rights, in line with the regulatory ***requirements or co-regulatory*** or self-regulatory ***mechanisms*** to which they are subject in the Member States. Therefore, also in view of users' right to receive and impart information ▌, where a provider of a very large online platform considers that content provided by such media service providers is incompatible with its terms and conditions, ▌it should duly consider media freedom and media pluralism, in accordance with Regulation (EU) ***2022/2065,*** and provide, as early as possible, the necessary explanations to media service providers ***in a statement of reasons as referred to in Article 4(1) of*** Regulation (EU) 2019/1150 of the European Parliament and of the Council[21] ***and Article 17 of Regulation (EU) 2022/2065***. To minimise the impact of any restriction to that content on users' right to receive and impart information, very large online platforms should ***submit their statement of reasons prior to the suspension or restriction of visibility taking effect. In addition, they should provide the media service provider concerned with an opportunity to reply to*** the statement of reasons ***within 24 hours of receiving it,*** prior to the suspension or restriction ***of visibility*** taking effect***. A shorter timeframe could apply in the event of a crisis as referred to in Article 36(2) of*** Regulation (EU) ***2022/2065 in order to take into account, in particular, an urgent need to moderate the relevant content in such exceptional circumstances***.

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21 Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (OJ L 186, 11.7.2019, p. 57).

(51) ***The use of labelling or age verification tools by providers of very large online platforms in accordance with their terms of service and with Union law*** should not ***be understood as a restriction of visibility. Following the reply of a media service provider to the statement of reasons by a provider of a*** very large online platform***, or in the absence of such a reply within the given period of time, that*** provider of a very large online platform ***should inform the media service provider if it intends to proceed with the suspension of*** the provision of its online intermediation services in relation to the content provided by the media service provider ***or the restriction of the visibility of that content. This Regulation should not affect the obligations of providers of very large online platforms to take*** measures against illegal content disseminated through ***their services,*** to take measures in order to ***assess and*** mitigate systemic risks posed by ***their services, for example*** through ***disinformation, or to take measures in order to protect minors. In that context, nothing in this Regulation should be construed as deviating from the obligations of providers of very large online platforms*** pursuant to ***Articles 28, 34 and 35 of*** Regulation (EU) ***2022/2065 and Article 28b of Directive 2010/13/EU***.

(52) It is justified, in view of an expected positive impact on the freedom to provide services and the freedom of expression, that where media service providers ***comply with*** certain regulatory, co-regulatory or self-regulatory standards, their complaints against decisions of providers of very large online platforms be treated with priority and without undue delay.

(53) To that end, providers of very large online platforms ***providing access to media content*** should provide a functionality on their online interface to enable media service providers to declare that they meet certain requirements, while at the same time retaining the possibility to reject such self-declarations where they consider that those conditions are not met. ***When a media service provider declares itself compliant with regulatory requirements or a co-regulatory or self-regulatory mechanism, it should be able to provide the contact details of the relevant national regulatory authority or body or of the representatives of the co-regulatory or self-regulatory mechanism, including those provided by widely-recognised professional associations representing a given sector and operating at Union or national level. Where there is a reasonable doubt, that information would enable the provider of a very large online platform to confirm with those authorities or bodies whether the media service provider is subject to such requirements or mechanisms. Where relevant,*** providers of very large online platforms ***should*** rely on information regarding adherence to those requirements, such as the machine-readable standard of the Journalism Trust Initiative***, developed under the aegis of the European Committee for Standardisation,*** or other relevant codes of conduct. ***Recognised civil society organisations, fact-checking organisations and other relevant professional organisations recognising the integrity of media sources on the basis of standards agreed with the media industry should also have the possibility to flag to the providers of very large online platforms any potential issue regarding compliance by media service providers with the relevant requirements for the self-declaration.*** Guidelines ***issued*** by the Commission ***would be key*** to facilitate an effective implementation of such a functionality***. Those guidelines should contribute to minimising the risk of potential abuse of the functionality, in particular by media service providers that engage systematically in disinformation, information manipulation and interference, including those controlled by certain third countries, taking into account the criteria to be developed by the Board regarding media service providers from outside the Union. For that purpose, those guidelines could cover arrangements related to the involvement of recognised civil society organisations, including fact-checking organisations, in the review*** of the ***declarations or to the consultation of national regulatory authorities or bodies or co-regulatory or self-regulatory bodies.***

(54) This Regulation recognises the importance of co-***regulatory and*** self-regulatory mechanisms in the context of the provision of media services on very large online platforms. Such mechanisms represent a type of voluntary initiative, for instance in the form of codes of conduct, which enables media service providers or their representatives to adopt common guidelines, including on ethical standards, the correction of errors or complaint handling, amongst themselves and for themselves. Robust, inclusive and ***widely accepted*** media self-regulation represents an effective guarantee of the quality and professionalism of media services and is key to safeguarding editorial integrity.

(55) Providers of very large online platforms should engage in a dialogue with media service providers that respect standards of credibility and transparency and that consider that restrictions on ***or suspensions*** of their content are ***repeatedly*** imposed by providers of very large online platforms without sufficient grounds, in order to find an amicable solution for terminating any unjustified restrictions ***or suspensions*** and avoiding them in the future. Providers of very large online platforms should engage in such dialogues in good faith, paying particular attention to safeguarding media freedom and the freedom of information. ***The Board should inform the Commission of its opinions on the outcome of such dialogues. The Commission could take such opinions into account in the context of the enforcement of Regulation (EU) 2022/2065.***

(56) Building on the useful role played by ERGA in monitoring compliance by the signatories of the EU Code of Practice on Disinformation, the Board should, at least on a yearly basis, organise a structured dialogue between providers of very large online platforms, representatives of media service providers and representatives of civil society to foster access to diverse offerings of independent media on very large online platforms, discuss experience and best practices related to the application of the relevant provisions of this Regulation***, including as regards the moderation processes by very large online platforms,*** and to monitor adherence to self-regulatory initiatives aimed at protecting users from harmful content, including those which aim to counter disinformation. The Commission could, where relevant, examine the reports on the results of such structured dialogues when assessing systemic and emerging issues across the Union ***as part of its enforcement of Regulation (EU) 2022/2065*** and could ask the Board to support it for that purpose.

(57) Recipients of ▌ media services ***providing programmes*** should be able to effectively choose the ▌ content they want to watch ***or listen to*** according to their preferences. Their freedom to choose content could, however, be constrained by commercial practices in the media sector, ***such as*** agreements for content prioritisation between ***media service providers and*** manufacturers of devices or providers of user interfaces controlling or managing access to and the use of ***media services providing programmes***, such as connected televisions ***or car audio systems***. Prioritisation can be implemented, for example, on the home screen of a device, through hardware ***settings*** or software shortcuts, applications and search areas, which have implications on the recipients' ▌ behaviour, who might be unduly incentivised to choose certain ▌ media offerings over others. ***User choice could also be limited by closed circuits of pre-installed applications. Users*** should be able to change, ***at any time***, in a simple***, easily accessible*** and user-friendly manner, the ***configuration, including*** default settings, of a device***, such as a remote control, or of a*** user interface controlling ***or*** managing access to and the use of ***media services providing programmes. That should be understood as covering all the customisation features of devices or user interfaces which orientate or guide users in their choices as regards the media services or content they wish to access and which allow them to find or discover such services or content, taking into account the goal of fair access to*** media services ***in all their diversity, from the perspective of both users and media service providers. That right should not extend to individual items, such as programmes, within an on-demand service catalogue and is*** without prejudice to measures intended to ensure the appropriate prominence of audiovisual media services of general interest implementing Article 7a of Directive 2010/13/EU as well as those implementing Article 7b of that Directive, taken in the pursuit of legitimate public policy considerations. ***Manufacturers, developers and importers should be able to demonstrate the effective user-friendliness of the functionality required when placing their relevant products on the market. Member States should ensure, by appropriate measures, that devices and interfaces placed on their market by relevant market players comply with the relevant requirements set out in this Regulation. That could be achieved by monitoring the application and effectiveness of the actions taken by such market players.***

(58) ***Visual identities of media service providers consist of brands, logos, trademarks or other characteristic traits and enable recipients of media services providing programmes to determine easily who bears the editorial responsibility for the service. Visual identities are also a key competitive asset for media service providers, enabling them to differentiate their media offering on the market. Therefore, it is important that visual identities of media service providers providing programmes are preserved when users access their media services through different devices and user interfaces. To that end, manufacturers, developers and importers of devices and user interfaces should make sure that such visual identities as provided by such media service providers are not removed or modified.***

(59) ***In order to ensure a level playing field in the provision of diverse media services providing programmes in the face of technological developments in the internal market and to ensure fair access to media services in all their diversity, it is necessary to promote the development of common harmonised standards for devices and user interfaces controlling or managing access to and the use of media services providing programmes or digital signals conveying the content from source to destination. In that context, it is important to avoid diverging technical standards which create barriers and additional costs for the industry and consumers, while encouraging the development of solutions to implement existing obligations concerning media services.***

(60) Different legislative, regulatory or administrative measures ***could be justified and conducive to media pluralism. However, some measures could hinder or render less attractive the exercise of the freedom of establishment and the freedom to provide services in the media sector, to the detriment of media pluralism or the editorial independence*** of media service providers ***operating*** in the internal market. ***Such measures can take various forms***, for example rules to limit the ownership of media undertakings by other undertakings active in the media sector or non-media related sectors***.*** They also include decisions related to licensing, ***such as revoking or making more difficult the renewal of media service providers' licences, and decisions related to the*** authorisation or prior notification of media service providers. In order to mitigate their potential negative impact on ***media pluralism or the editorial independence of media service providers operating in the internal market*** and to enhance legal certainty ***in the internal market for media services***, it is important that such measures comply with the principles of objective justification, transparency, non-discrimination and proportionality. ***Administrative measures that are liable to affect media pluralism or editorial independence should be adopted within predictable timeframes. Such timeframes should have a sufficient length to ensure an adequate assessment by media service providers of the measures and their foreseeable consequences. Moreover, media service providers which are individually and directly affected by regulatory or administrative measures should have the right to appeal such measures before an independent appellate body. If the appellate body is not a court, it should have the adequate resources necessary for its effective functioning.***

(61) ***Without prejudice to the application of the Union's competition and State aid rules and national measures taken in compliance with such rules,*** it is ▌ key that the Board***, where national regulatory or administrative measures are likely to significantly affect the operation of media service providers in the internal market,*** is empowered to issue opinions***. The opinions of the Board should focus on*** national measures ***that have the potential to disrupt the activities of media service providers in*** the internal market***, for instance by preventing or obstructing their operation in such a way that the provision of their*** media services ***in a given market is seriously undermined. That could be*** the case where a national administrative measure is addressed ***specifically*** to a media service provider providing its services to more than one Member State or where ***it concerns a*** media service provider ***that, because of, inter alia, its market shares, audience reach or level of circulation,*** has a significant influence on the formation of public opinion in that Member State***, and it prevents such a media service provider from effectively operating in a given market or entering a new one***. ***The Board can issue such opinions on its own initiative and should issue such opinions at the request of the Commission. The Board should also issue opinions on such measures at the request of individually and directly affected media service providers. To that end, the media service provider concerned should submit a duly justified and reasoned request to the Board. In its request, the media service provider concerned should, in particular, indicate whether it has already exhausted all the available national remedies by challenging the contested measures before national courts or other competent national authorities or bodies and the type of decision or decisions that resulted therefrom. The request should indicate the reasons for which the media service provider concerned considers that the contested measure or measures significantly affect its operation in the internal market and the reasons for which it considers that such measure or measures directly and individually affect its legal situation.***

(62) Media market concentrations are assessed differently across the Union from a media pluralism standpoint. The rules and procedures related to the assessment of media market concentrations vary across the Union. Some Member States rely on competition assessments only, whereas others have dedicated frameworks for specific media pluralism assessments of concentrations. In the latter case, there are considerable differences. In some cases, all media transactions are scrutinised, irrespective of whether they reach certain thresholds, while in other cases an assessment is conducted only when specific thresholds are exceeded or certain qualitative criteria are met. For instance, for the purposes of such an assessment, some Member States apply revenue multipliers in order to ensure that competitive threats do not pass undetected and are brought under scrutiny even when the outlets involved have low revenues. Where they exist, there are also differences in the procedures applicable to the scrutiny of market transactions for media pluralism purposes. That scrutiny is often carried out independently by the media regulator through a self-standing assessment or by the competent authority with the involvement of the media regulator by means of an opinion, which could be a stand-alone contribution or take the form of written views or comments in the context of an ongoing assessment. Certain national rules enable ministries or governmental bodies to intervene in the scrutiny of media markets on non-economic grounds, ranging from the protection of media pluralism to the safeguarding of public security or other general interests.

(63) ***The divergence and lack of coordination between Member States' rules and procedures applicable to media market concentrations can result in legal uncertainty and regulatory, administrative or economic burdens for media undertakings willing to operate across borders, thus distorting competition in the internal market for media services. In some cases, national measures in the area can effectively prevent a media undertaking established in the Union from entering another national market, without being genuinely aimed at promoting media pluralism*[22]*. Ultimately, instead of achieving greater media plurality, that might reinforce the oligopolistic dynamics in the media market. In order to reduce obstacles which hinder media service providers' ability to operate in the internal market, it is important that this Regulation set out a common framework for assessing media market concentrations across the Union.***

[22] ***Judgment of the Court of Justice of 3 September 2020,* Vivendi SA *v* Autorità per le Garanzie nelle Comunicazioni, *C-719/18, ECLI:EU:C:2020:627.***

(64) Media play a decisive role in shaping public opinion and ***providing citizens with information which is relevant for actively participating*** in democratic processes. That is why Member States***, independently from competition law assessments,*** should provide for rules and procedures in ***national law to allow for the*** assessment of media market concentrations that could have a significant impact on media pluralism ***and*** editorial independence. ***In that context, media pluralism should be understood as the possibility to have access to a variety of media services and media content which reflect diverse opinions, voices and analyses. National*** rules and procedures can have an impact on the freedom to provide media services in the internal market and need to be properly framed and be transparent, objective, proportionate and non-discriminatory. Media market concentrations subject to such rules should be understood as covering those which could result in a single entity controlling or having significant interests in ***the market concerned and thus having*** a substantial influence on the formation of public opinion in a given media market ▌ in one or more Member States. An important criterion to be taken into account is the reduction of competing views within that market as a result of the media market concentration.

(65) National regulatory authorities or bodies, which have specific expertise in the area of media pluralism, should be involved in the assessment of the impact of media market concentrations on media pluralism and editorial independence where they are not the designated authorities or bodies themselves. ***The involvement of those national regulatory authorities or bodies should be substantive, for instance by ensuring that their views are taken into account in the competition assessment.*** In order to foster legal certainty and ensure that the national rules and procedures that ***allow for the*** assessment of media market concentrations that could have a significant impact on media pluralism and editorial independence genuinely aim to protect media pluralism and editorial independence, it is essential that objective, non-discriminatory and proportionate criteria for notifying and assessing the impact of media market concentrations on media pluralism and editorial independence be set out in advance.

(66) Where a media market concentration constitutes a concentration falling within the scope of Regulation (EC) No 139/2004 ▌, the application of this Regulation or of any rules and procedures adopted by Member States on the basis of this Regulation should not affect ***and should be distinct from*** the application of Article 21(4) of Regulation (EC) No 139/2004. Any measures taken by the designated national regulatory authorities or bodies or the national regulatory authorities or bodies involved on the basis of their assessment ***of media market concentrations that could have a significant impact*** on media pluralism and editorial independence should therefore aim to protect legitimate interests within the meaning of Article 21(4), second subparagraph, of Regulation (EC) No 139/2004 and should be in line with the general principles and other provisions of Union law. ***This Regulation should be without prejudice to more detailed national rules applicable to media market concentrations occurring, in particular, at regional or local level.***

(67) The Board should be empowered to provide opinions on draft ***assessments*** by the designated national regulatory authorities or bodies or ***draft opinions by the*** national regulatory authorities or bodies involved, where the ***media market*** concentrations ***are likely to*** affect the functioning of the internal market for media services. That would be the case, for example, where such concentrations involve ***acquisitions by or of an*** undertaking established in another Member State or operating ***across borders*** or result in media service providers having a significant influence on the formation of public opinion in a given media market ***with potential effects on audiences in the internal market. Where a media market*** concentration has not been ***or could not be*** assessed for its impact on media pluralism and editorial independence by the relevant ▌ authorities or bodies ***at the national level*** or where the national regulatory authorities or bodies have not consulted the Board regarding a ▌ media market concentration ***that*** is considered likely to affect the functioning of the internal market for media services, the Board can provide an opinion ***on its own initiative and should provide an opinion*** at the request of the Commission. In ***that context***, the Commission ***should retain*** the possibility to issue its own opinions ▌ .

(68) With a view to ensuring pluralistic media markets, the national authorities or bodies and the Board should take account of the elements provided for in this Regulation. In particular, the national authorities or bodies and the Board should consider ***the expected*** impact that media market concentrations have on media pluralism, including, in particular, the effect they have on the formation of public opinion, taking into account ▌ the online environment. ***In that respect and particularly where relevant in order to assess the possible impact they have on the formation of public opinion in significant parts of a given media market,*** the national authorities or bodies and the Board should take into account ***the geographical reach of the entities involved in media market concentrations.*** Concurrently, they should consider whether other media outlets that provide different and alternative content would still coexist in the given market or markets if the media market concentration in question is implemented. When assessing safeguards for editorial independence, the national authorities or bodies and the Board should examine the potential risks of undue interference by the prospective owner, management or governance structure in the ▌ editorial decisions of the acquired or merged entity. The national authorities or bodies and the Board should also take into account the existing or envisaged internal safeguards which aim to preserve ***ethical and professional standards as well as the*** independence of ▌ editorial decisions taken within the media undertakings involved. In assessing the potential impact of media market concentrations on media pluralism and editorial independence, the national authorities or bodies and the Board should consider the effect of the concentration in question on the economic sustainability of the entity or entities involved in the concentration. They should also consider whether, in the absence of the concentration, the entity or entities involved in the concentration would be economically sustainable, in the sense that, in the medium term, they would be able to continue to provide and further develop financially viable, adequately resourced and technologically adapted quality media services in the market. ***Where applicable, the*** national authorities or bodies and the Board ***should also take into account the commitments that any of the parties involved might offer in order to ensure that the relevant media market concentration guarantees media pluralism and editorial independence. Where relevant, the national authorities or bodies in their assessments and the Board in its opinions should also take into account the findings of the Commission's annual rule of law reports related to media pluralism and media freedom.***

(69) Audience measurement has a direct impact on the allocation and prices of advertising, which represents a key revenue source for the media sector. It is a crucial tool for evaluating the performance of media content and understanding the preferences of audiences in order to plan the future production of content. Accordingly, media market players, in particular media service providers and advertisers, should be able to rely on objective ***and comparable*** audience data stemming from transparent, unbiased and verifiable audience measurement solutions. ***In principle, audience measurement should be carried out in accordance with widely accepted industry self-regulatory mechanisms.*** However, certain new players that have emerged in the media ecosystem***, such as online platforms, do not abide by the industry standards or best practices agreed through relevant industry self-regulatory mechanisms and*** provide their ***proprietary*** measurement services without making available information on their methodologies. That could result in ***audience measurement solutions that are not comparable,*** information asymmetries among media market players and ▌ potential market distortions, to the detriment of the equality of opportunities for media service providers in the market. ***Therefore, it is important that audience measurement systems and methodologies made available on the market ensure an appropriate level of transparency, impartiality, inclusiveness, proportionality, non-discrimination, comparability and verifiability.***

(70) ***Relevant market players have traditionally agreed upon a set of measurement methodologies in order to carry out audience measurement in a transparent and reliable manner and develop impartial and trusted benchmarks to be used when assessing the performance of media and advertising content. Those measurement methodologies are either reflected in relevant industry standards and best practices or are organised and consolidated by self-regulatory bodies, such as the Joint Industry Committees, which are established in several Member States and bring together all the key stakeholders operating in the media and advertising industry.*** In order to enhance the verifiability***, reliability and comparability*** of audience measurement methodologies, in particular online, transparency obligations should be laid down for providers of ***proprietary*** audience measurement systems that do not ***follow the relevant industry standards and best practices or do not*** abide by the industry benchmarks agreed within the relevant self-regulatory bodies. Under those obligations, such actors, where requested and to the extent possible, should provide advertisers and media service providers or parties acting on their behalf with information describing the methodologies employed for the measurement of the audience. Such information could consist in providing elements such as the size of the sample measured, the definition of the indicators that are measured, the metrics, the measurement methods***, the measurement period, the coverage of measurement*** and the margin of error***. To ensure an adequate level of effectiveness of those transparency obligations and to foster the trustworthiness of proprietary audience measurement systems, the methodologies and the way in which they are applied should be subject to independent audits on a yearly basis. Furthermore, in order to help achieve a level playing field and foster the clarity and contestability of the relevant information that is provided to the market, it is also key that the audience measurement results be made available.***

For that reason, media service providers should be able to request providers of proprietary audience measurement systems to provide information on the audience measurement results concerning their own media content and services. In particular, providers of proprietary audience measurement systems should ensure that that information is provided in an industry-standard form, includes the relevant non-aggregated data, is of high quality and is detailed enough to allow the requesting media service providers to carry out an effective and meaningful assessment of the reach and performance of their media content and services. The need to increase the transparency and contestability of proprietary audience measurement systems should be reconciled with the freedom of providers of audience measurement systems to develop their own measurement systems as part of their freedom to conduct business. In particular, the transparency obligations imposed on providers of audience measurement ***systems by this Regulation should be without prejudice to the protection of the trade secrets of providers of audience measurement systems as defined in Directive (EU) 2016/943 of the European Parliament and of the Council***[23]. The obligations imposed by this Regulation ***should also be*** without prejudice to any obligations that apply to providers of audience measurement systems under ***Regulation (EU) 2019/1150*** or Regulation (EU) ***2022/1925 of the European Parliament and of the Council***[24], including those concerning ranking***, self-preferencing or providing access to performance measuring tools and the relevant data***.

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23 ***Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).***

24 ***Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (OJ L 265, 12.10.2022, p. 1).***

(71) Codes of conduct, drawn up either by the providers of audience measurement systems or by organisations or associations representing them, ***together with media service providers and providers of online platforms, as well as their representative organisations, and other relevant stakeholders, could*** contribute to the effective application of this Regulation and should, therefore, be encouraged. ***Self-regulatory mechanisms widely recognised in the media industry have*** already been used to foster high quality standards in the area of audience measurement***, ensuring the impartiality of the measurements and the comparability of the results. Their*** further development could be seen as an effective tool for the industry to agree on the practical solutions needed for ensuring compliance of audience measurement systems and their methodologies with the principles of transparency, impartiality, inclusiveness, proportionality, non-discrimination***, comparability*** and verifiability. When drawing up such codes of conduct, in consultation with all relevant stakeholders and notably media service providers ***and providers of online platforms***, account could be taken, in particular, of the increasing digitalisation of the media sector and the ***need to make increasingly comparable the different audience measurement solutions available on the market. In fact, comparability of audience measurement results is key to*** achieving a level playing field among media market players ***as it enables media service providers and advertisers to better gauge the success of their offering, which users increasingly consume across different devices and platforms. For that reason, the relevant industry players should be encouraged to make use of codes of conduct and other self-regulatory mechanisms to foster the development of audience measurement solutions which are comparable across different media and platforms. In addition, such codes of conduct should also foster the development of solutions ensuring the proper measurement of audiences of small media service providers***.

(72) ***Public funds allocated for*** state advertising ***and supply or service contracts are*** an important source of revenue for many media service providers ***and providers of online platforms***, contributing to their economic sustainability. In order to ensure equal opportunities in the internal market, access to ***such funds*** should be granted in a non-discriminatory way to any media service provider ***or provider of an online platform*** from any Member State which can adequately reach some or all of the relevant members of the public. Moreover, ***public funds allocated for*** state advertising ***and supply or service contracts*** could make media service providers ***and providers of online platforms*** vulnerable to undue state influence ***or partial interests*** to the detriment of the freedom to provide services and fundamental rights. An opaque and biased allocation of ***such funds*** is therefore a powerful tool to exert influence ***on the editorial freedom of media service providers,*** 'capture' media service providers ***or covertly subsidise such providers to gain unfair political or commercial advantage or favourable coverage***. ***Public funds allocated for*** state advertising ***and supply or service contracts*** are in some regards regulated through a fragmented framework of media-specific measures and ***Union*** public procurement ***rules***, which ***do not*** offer sufficient protection against preferential or biased distribution. In particular, Directive 2014/24/EU of the European Parliament and of the Council[25] does not apply to public service contracts for the acquisition, development, production or co-production of programme material intended for audiovisual media services or radio media services. Media-specific rules on ***public funds allocated for*** state advertising ***and supply or service contracts***, where they exist, diverge significantly from one Member State to another. ***That could create information asymmetry for media market players and have a negative impact on cross-border economic activity in the internal*** market for media services***. Most importantly, it could distort competition, discourage investment and be detrimental to a level playing field in the internal*** market for media services***.***

[25] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

(73) In order to ensure undistorted competition between media service providers and ***online platforms and*** to avoid the risk of covert subsidies and of undue political influence on the media, it is necessary to establish common requirements of transparency, objectivity, proportionality and non-discrimination in the allocation of ***public funds or other*** state resources to media service providers ***and providers of online platforms*** for ***state advertising or in*** purchasing goods or services from them other than state advertising, ***for example, audiovisual productions, market data and consulting or training services. Where possible, with due regard to the national and local specificities of the relevant media markets, to national governance models and to the division of competence between national, regional and local level in the Member States, taking into account, in particular, the amount of state resources allocated and the number of potential providers of relevant advertising services or relevant goods or services other than advertising, such allocation should aim to ensure media plurality, in particular by benefitting a variety of different media service providers and providers of online platforms. Such allocation should not result in an unjustified and disproportionate advantage for certain providers. In order to ensure a high level of transparency, it is important that the criteria and procedures used to allocate public funds to media service providers and providers of online platforms for state advertising and supply or service contracts be made publicly available in advance by electronic and user-friendly means.***

The common requirements regarding state advertising and supply or service contracts should cover public funds allocated both directly and indirectly, for instance through specialised intermediaries such as advertising agencies and advertising exchange providers. It is also necessary to establish common requirements to publish information on the ***recipients*** of state advertising expenditure and the amounts spent. It is important that Member States make the necessary information related to state advertising publicly accessible in an electronic format that is easy to view, access and download, in compliance with Union and national rules on commercial confidentiality. ***It is also necessary for national regulatory authorities or bodies or other competent independent authorities or bodies in the Member States to monitor and report on the allocation of public funds for*** state ***advertising to media service providers and providers of online platforms. Where requested by national regulatory authorities or bodies or other competent independent authorities or bodies, public authorities and entities should provide them with additional information necessary to assess the completeness of the information published and the application of criteria and procedures used for the allocation of such funds. This Regulation should not affect the application of the Union's public procurement and State aid rules***.

(74) The Commission should ensure that risks to the functioning ▌ of the internal market for media services are independently and continuously monitored as part of the efforts to improve the functioning of the internal market for media services (the 'monitoring exercise'). The monitoring exercise should aim to provide detailed data and qualitative assessments ▌ , including as regards the degree of concentration of the ***media*** market at national and regional level and risks of foreign information manipulation and interference. It should be conducted independently ***by a specialised academic entity in collaboration with researchers from the Member States*** on the basis of a robust list of key performance indicators ***and methodological safeguards***. The Commission, in consultation with the Board, should develop and regularly update those key performance indicators and methodological safeguards. Given the rapidly evolving nature of risks to and technological developments in the internal market for media services, the monitoring exercise should ▌ assess the prospective ***economic viability*** of the internal market for media services in order to alert about vulnerabilities in media pluralism and editorial independence and to help efforts to improve governance, data quality and risk management. The monitoring exercise should cover, in particular, the level of cross-border activity and investment, regulatory cooperation and convergence in media regulation, obstacles to the provision of media services, including in a digital environment, ***the position of media service providers in the digital environment***, and transparency and fairness in the allocation of economic resources in the internal market for media services.

The monitoring exercise should also consider broader trends in the internal market for media services and national media markets and national law affecting media service providers. In addition, the monitoring exercise should provide ***a general*** overview of measures taken by media service providers with a view to guaranteeing the independence of editorial decisions, including those proposed in Recommendation (EU) 2022/1634***, and an analysis of their potential to reduce risks to the functioning of the internal market for media services***. In order to ensure the highest standards of the monitoring exercise, the Board, because it gathers together entities with a specialised media market expertise, should be duly involved in the monitoring exercise. ***Furthermore, where relevant, the monitoring exercise should take into account the findings of the Council of Europe Platform to promote the protection of journalism and safety of journalists and of the Media Freedom Rapid Response, given their effectiveness in identifying risks or threats to journalists and media service providers which can also affect the internal*** market for media services***.***

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(75) It should be recalled that the Commission has the duty to monitor the application of this Regulation in accordance with its responsibility pursuant to Article 17 TEU. In that regard, the Commission has stated in its communication of 19 January 2017 entitled 'EU law: Better results through better application' that it is important that it focus and prioritise its enforcement efforts on the most significant breaches of Union law affecting the interests of Union's citizens and businesses.

(76) Since the objective of this Regulation, namely ensuring the proper functioning of the internal market for media services, cannot be sufficiently achieved by the Member States, because they cannot or might not have incentives to achieve the necessary harmonisation and cooperation acting alone, but can rather, by reasons of the increasingly digital and cross-border production, distribution and consumption of media content as well as the unique role of media services, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(77) This Regulation respects the fundamental rights and observes the principles recognised by the Charter, in particular Articles 7, 8, 11, 16, 47, 50 and 52 thereof. Accordingly, this Regulation should be interpreted and applied with due respect for those rights and principles. In particular, nothing in this Regulation should be interpreted as interfering with the freedom of information***, editorial freedom*** or the freedom of the press ***as enshrined in national constitutional law that is consistent with the Charter*** or as incentivising Member States to introduce requirements for the editorial content of press publications.

(78) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council[26] and delivered an opinion on ***11 November*** 2022[27],

HAVE ADOPTED THIS REGULATION:

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[26] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

[27] OJ C 487, 22.12.2022, p. 9.

Chapter I
General provisions

Article 1

Subject matter and scope

1. This Regulation lays down common rules for the proper functioning of the internal market for media services and establishes the European Board for Media Services, while ***safeguarding the independence and pluralism*** of media services.

2. This Regulation does not affect rules laid down by:

(a) Directive 2000/31/EC;

(b) Directive (EU) 2019/790 of the European Parliament and of the Council[28];

(c) Regulation (EU) 2019/1150;

(d) Regulation (EU) ***2022/2065***;

(e) Regulation (EU) ***2022/1925***;

(f) Regulation (EU) 2024/… of the European Parliament and of the Council[29+];

(g) Regulation (EU) 2016/679 of the European Parliament and of the Council[30].

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28 Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92).

29 Regulation (EU) 2024/… of the European Parliament and of the Council of … on the transparency and targeting of political advertising (OJ L, 2024/…, …, ELI: http://data.europa.eu/eli/reg/2024/…/oj).

+ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 90/23 (2021/0381(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

30 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

3. This Regulation does not affect the possibility for Member States to adopt more detailed ***or stricter*** rules in the fields covered by Chapter II***,*** Chapter III, Section 5, ***and Article 25***, provided that those rules ***ensure a higher level of protection for media pluralism or editorial independence in accordance with this Regulation and*** comply with Union law.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'media service' means a service as defined by Articles 56 and 57 TFEU, where the principal purpose of the service or a dissociable section thereof consists in providing programmes or press publications, under the editorial responsibility of a media service provider, to the general public, by any means, in order to inform, entertain or educate;

(2) 'media service provider' means a natural or legal person whose professional activity is to provide a media service and who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised;

(3) 'public service media provider' means a media service provider which is entrusted with a public service ***remit*** under national law ***and*** receives national public funding for the fulfilment of such a ***remit***;

(4) 'programme' means a set of moving images or sounds constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider;

(5) ‘press publication’ means press publication as defined in Article 2, point (4), of Directive (EU) 2019/790;

(6) ‘audiovisual media service’ means audiovisual media service as defined in Article 1(1), point (a), of Directive 2010/13/EU;

▌

(7) ‘editorial decision’ means a decision which is taken on a regular basis for the purpose of exercising editorial responsibility and linked to the day-to-day operation of a media service provider;

(8) ‘editorial responsibility’ means the exercise of effective control both over the selection of programmes or press publications and over their organisation, for the purposes of the provision of a media service, regardless of the existence of liability under national law for the service provided;

(9) ‘online platform’ means online platform as defined in Article 3, point (i), of Regulation (EU) 2022/2065;

(10) ‘provider of a very large online platform’ means a provider of an online platform that has been designated as a very large online platform pursuant to Article ***33(4)*** of Regulation (EU) ***2022/2065***;

(11) ‘video-sharing platform service’ means video-sharing platform service as defined in Article 1(1), point (aa), of Directive 2010/13/EU;

(12) ‘video-sharing platform provider’ means video-sharing platform provider as defined in Article 1(1), point (da), of Directive 2010/13/EU;

(13) ‘national regulatory authority or body’ means ***any*** authority or body designated by a Member State pursuant to Article 30 of Directive 2010/13/EU;

(14) 'user interface' means a service which controls or manages access to and the use of media services providing programmes and which enables users to select media services or content;

(15) 'media market concentration' means a concentration as defined in Article 3 of Regulation (EC) No 139/2004 involving at least one media service provider ***or one provider of an online platform providing access to media content***;

(16) 'audience measurement' means the activity of collecting, interpreting or otherwise processing data about the number and characteristics of users of media services ***or users of content on online platforms*** for the purposes of decisions regarding advertising allocation, ***pricing, purchases or sales or*** regarding the planning ▌ or distribution of content;

(17) 'proprietary audience measurement' means audience measurement which does not follow industry standards and best practices agreed through self-regulatory mechanisms;

(18) 'public authority or entity' means a national or subnational government, a regulatory authority or body, or an entity controlled, directly or indirectly, by a national or subnational government;

(19) ‘state advertising’ means the placement***, promotion***, publication or dissemination, in any media service ***or online platform,*** of a promotional or self-promotional message ***or a public announcement or an information campaign***, normally in return for payment or for any other consideration, by, for or on behalf of ***a*** public authority ***or*** entity***;***

(20) ‘***intrusive surveillance software***’ means any product with digital elements specially designed to exploit vulnerabilities in other products with digital elements that enables the covert surveillance of natural or legal persons by monitoring, extracting, collecting or analysing data from such products or from the natural or legal persons using such products, ***including in an indiscriminate*** manner ▌ ;

▌

(21) ‘media literacy’ means skills, knowledge and understanding which allow citizens to use media effectively and safely and which are not limited to learning about tools and technologies but aim to equip citizens with the critical thinking skills required to exercise judgment, analyse complex realities and recognise the difference between opinion and fact.

Chapter II

Rights and duties of media service providers and recipients *of media services*

Article 3

***Right** of recipients of media services*

Member States shall respect the right of recipients of media services to have access to a plurality of ***editorially independent media content and ensure that framework conditions are in place in line with this Regulation to safeguard that right***, to the benefit of ***free and democratic*** discourse.

Article 4

Rights of media service providers

1. Media service providers shall have the right to exercise their economic activities in the internal market without restrictions other than those allowed ***pursuant to*** Union law.

2. Member States shall respect ***the*** effective editorial freedom ***and independence*** of media service providers ***in the exercise of their professional activities***. Member States, including their national regulatory authorities and bodies, shall not ***interfere in or try to influence the editorial policies and editorial decisions of media service providers.***

3. Member States shall ensure that journalistic sources and confidential communications are effectively protected. Member States shall not take any of the following measures:

(a) ***oblige media service providers or their editorial staff to disclose information related to or capable of identifying journalistic sources or confidential communications or oblige any persons who, because of their regular or professional relationship with a media service provider or its*** editorial ***staff, might have such information to disclose it***;

(b) detain, sanction, intercept ▌ or inspect media service providers ***or their editorial staff*** or ***subject them or their corporate or private premises to surveillance or search and seizure for the purpose of obtaining information related to or capable of identifying journalistic*** sources ***or confidential communications*** or detain, sanction, intercept ▌ or inspect ***any persons who, because of*** their ***regular or professional relationship with a media service provider or its editorial staff, might have such information or subject them or their corporate or private premises to surveillance or search and seizure for the purpose of obtaining such information***;

(c) deploy ***intrusive surveillance software on any material, digital*** device***, machine or tool*** used by media service providers ▌ , their ***editorial staff or any persons who, because of their regular or professional relationship with a media service provider or its editorial staff, might have information related to or capable of identifying journalistic sources or confidential communications***.

4. By way of derogation from paragraph 3, points (a) and (b), of this Article, Member States may take a measure referred to therein, provided that it:

(a) is provided for by Union or national law;

(b) is in compliance with Article 52(1) of the Charter and other Union law;

(c) is justified on a case-by-case basis by an overriding reason of public interest and is proportionate; and

(d) is subject to prior authorisation by a judicial authority or an independent and impartial decision-making authority or, in duly justified exceptional and urgent cases, is subsequently authorised by such an authority without undue delay.

5. By way of derogation from paragraph 3, point (c), Member States may deploy intrusive surveillance software, provided that the deployment:

(a) complies with the conditions listed in paragraph 4; and

(b) is carried out for the purpose of investigating one of the persons referred to in paragraph 3, point (c), for:

(i) offences listed in Article 2(2) of Framework Decision 2002/584/JHA punishable in the Member State concerned by a custodial sentence or a detention order of a maximum period of at least three years; or

(ii) other serious crimes punishable in the Member State concerned by a custodial sentence or a detention order of a maximum period of at least five years, as determined by the law of that Member State.

Member States shall not take a measure as referred to in paragraph 3, point (c), where a measure as referred to in point (a) or (b) of that paragraph would be adequate and sufficient to obtain the information sought.

6. Member States shall ensure that the surveillance measures referred to in paragraph 3, point (b), and the deployment of intrusive surveillance software referred to in point (c) of that paragraph are regularly reviewed by a judicial authority or an independent and impartial decision-making authority in order to determine whether the conditions justifying their use continue to be fulfilled.

7. Directive (EU) 2016/680 of the European Parliament and of the Council[31], including the safeguards provided therein such as the right of the data subject to information and access to personal data undergoing processing, shall apply to any processing of personal data carried out in the context of the deployment of the surveillance measures referred to in paragraph 3, point (b), of this Article or the deployment of intrusive surveillance software referred to in point (c) of that paragraph.

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31 Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

8. ***Member States shall ensure that media service providers, their editorial staff or any persons who, because of their regular or professional relationship with a media service provider or its editorial staff, might have information related to or capable of identifying journalistic sources or confidential communications have a right to effective judicial protection, in line with Article 47 of the Charter***, ***in cases*** regarding breaches of ***paragraphs 3 to 7 of this Article.***

Member States shall entrust an independent authority or body with relevant expertise to provide assistance to the persons referred to in the first subparagraph with regard to the exercise of that right. Where no such authority or body exists, those persons may seek assistance from a self-regulatory body or mechanism.

9. The Member States' responsibilities as laid down in the TEU and the TFEU are respected.

Article 5

Safeguards for the independent functioning of public service media providers

1. ***Member States shall ensure that*** public service media providers ***are editorially and functionally independent and*** provide in an impartial manner a plurality of information and opinions to their audiences, in accordance with their public service ***remit as defined at national level in line with Protocol No 29***.

2. ***Member States shall ensure that the procedures for the appointment and the dismissal of*** the head of management ***or*** the members of the ***management*** board of public service media providers ***aim to guarantee the independence of public service media providers***.

   The ***head of management or the members of the management board of*** public ▌ service ***media providers shall be appointed on the basis of transparent, open, effective and non-discriminatory procedures and transparent, objective, non-discriminatory and proportionate criteria*** laid down in advance ***at*** national ***level. The duration of their term of office shall be sufficient for the effective independence of public service media providers***.

Decisions on dismissal ***of the head of management or the members of the management board of public service media providers before the end of their term of office*** shall be duly justified, ***may be taken only exceptionally where they no longer fulfil the conditions required for the performance of their duties according to criteria laid down in advance at national level,*** shall be ***subject to prior notification*** to the ***persons concerned and shall include the possibility of judicial review***.

3. Member States shall ensure that ***funding procedures for public service media providers are based on transparent and objective criteria laid down in advance. Those funding procedures shall guarantee that*** public service media providers have adequate***, sustainable and predictable*** financial resources ***corresponding to*** the fulfilment of ***and the capacity to develop within*** their public service ***remit***. Those financial resources shall be such that the editorial independence ***of public service media providers*** is safeguarded.

4. Member States shall designate one or more independent authorities or bodies, ***or put in place mechanisms free from political influence by governments,*** to monitor ***the application of*** paragraphs 1, 2 and 3. ***The results of that monitoring shall be made available to the public.***

Article 6

Duties of media service providers ▌

1. Media service providers ▌ shall make easily and directly accessible to the recipients of their services ***up-to-date*** information ***on***:

(a) their legal name or name***s*** and contact details;

(b) the name or names of their direct or indirect owner or owners with shareholdings enabling them to exercise influence on the operation and strategic decision making***, including direct or indirect ownership by a state or by a public authority or entity***;

(c) the name or names of their beneficial owner or owners ***as defined in*** Article 3, point (6)***,*** of Directive (EU) 2015/849 ▌;

(d) the ***total annual amount of public funds for state advertising allocated to them and the total annual amount of advertising revenues received from third-country public authorities or entities.***

2. Member States shall entrust national regulatory authorities or bodies or other competent authorities or bodies with the development of national media ownership databases containing the information set out in paragraph 1.

3. Without prejudice to national constitutional law consistent with the Charter, media service providers providing news and current affairs content shall take measures that they deem appropriate with a view to guaranteeing the independence of editorial decisions. In particular, such measures shall aim to:

(a) guarantee that ***editorial decisions can be taken freely within the established editorial line of the media service provider concerned***; and

(b) ensure that any actual or potential conflicts of interest ▌ that might affect the provision of news and current affairs content are disclosed.

▌

Chapter III

Framework for regulatory cooperation and a well-functioning internal market for media services

Section 1

Independent media authorities

Article 7

National regulatory authorities or bodies

1. The national regulatory authorities or bodies ***shall ensure, where applicable by consulting or coordinating with other relevant authorities or bodies or, where relevant, self-regulatory bodies in their Member States,*** that this Chapter ▌ is applied.

2. The national regulatory authorities or bodies shall be subject to the requirements set out in Article 30 of Directive 2010/13/EU in relation to the exercise of the tasks assigned to them by this Regulation.

3. Member States shall ensure that the national regulatory authorities or bodies have adequate financial, human and technical resources to carry out their tasks under this Regulation.

4. Where needed for carrying out their tasks under this Regulation, ***Member States shall ensure that*** the national regulatory authorities or bodies ***are empowered to request the following persons to provide, within a reasonable period of time, information and data that are proportionate and necessary for carrying out the tasks under this Chapter:***

(a) the natural persons to whom or the legal persons to which this Chapter applies; and

(b) any other natural or legal person that, for purposes related to its trade, business or profession, might reasonably be in possession of such information and data.

Section 2
European Board for Media Services

Article 8

European Board for Media Services

1. The European Board for Media Services (the 'Board') is ***hereby*** established.

2. The Board shall replace and succeed the European Regulators Group for Audiovisual Media Services (ERGA) established by Article 30b of Directive 2010/13/EU.

Article 9

Independence of the Board

The Board shall act in full independence when performing its tasks or exercising its powers. In particular, the Board shall, in the performance of its tasks or the exercise of its powers, neither seek nor take instructions from any government, institution, person or body. This shall not affect the competences of the Commission or the national regulatory authorities or bodies in accordance with this Regulation.

Article 10

Structure of the Board

1. The Board shall be composed of representatives of national regulatory authorities or bodies.

2. Each member of the Board shall have one vote.

3. The Board shall take decisions by a two-thirds majority of its members with voting rights.

4. Where a Member State has more than one national regulatory authority or body, those national regulatory authorities or bodies shall coordinate with each other as necessary and appoint a joint representative. The joint representative shall exercise the right to vote.

5. The Board shall elect a Chair ***and a Vice-Chair*** from amongst its members***. The term of office of the Chair shall be one year, renewable once. The Board may set up a Steering Group***. The Board shall be represented by its Chair.

6. The Commission shall designate a representative to the Board. The representative of the Commission shall participate in ***the deliberations*** of the Board, without voting rights. The Chair of the Board shall keep the Commission informed about the ▌ activities of the Board. ▌

7. The Board ***may invite experts and***, in agreement with the Commission, ***permanent*** observers to attend its meetings.

▌

8. The Board shall adopt its rules of procedure***, in consultation with the Commission. Those rules of procedure shall include the arrangements for the prevention and management of conflicts of interest of the members of the Board***.

Article 11

Secretariat of the Board

1. The Board shall ***be assisted by*** a secretariat. The Commission shall provide the secretariat***, taking into account the needs indicated by the Board. The secretariat shall be adequately resourced for the performance of its tasks***.

2. The main task of the secretariat shall be to contribute to the ***independent*** execution of the tasks of the Board laid down in this Regulation and in Directive 2010/13/EU. ***The secretariat shall act on the sole instructions of the Board regarding its tasks under this Regulation.***

3. The secretariat shall provide administrative and organisational support to the Board with regard to its activities. The secretariat shall also assist the Board ***substantively*** in carrying out its tasks.

Article 12

Consultation mechanism

1. Where the Board considers matters beyond the audiovisual media sector, it shall consult representatives from the relevant media sectors operating at Union or national level.

2. The Board shall, in its rules of procedure, set out the arrangements for conducting consultations as referred to in paragraph 1. Such arrangements shall ensure that it is possible to involve several representatives, as appropriate.

3. Where possible, the Board shall make the results of consultations as referred to in paragraph 1 publicly available.

Article 13

Tasks of the Board

1. Without prejudice to the powers granted to the Commission by the Treaties, the Board shall ***advise and support the Commission on matters related to media services within the Board's competence and*** promote the consistent and effective application of this ***Chapter*** and ***the implementation of*** Directive 2010/13/EU throughout the Union. The Board shall ***therefore***:

(a) ***provide technical expertise to*** the Commission ***with regard to its task of ensuring the consistent and effective*** application of this ***Chapter*** and the implementation of Directive 2010/13/EU across all Member States, without prejudice to the tasks of national regulatory authorities or bodies;

(b) promote cooperation and the effective exchange of information, experience and best practices between the national regulatory authorities or bodies on the application of the Union and national rules applicable to media services, including this Regulation and Directive 2010/13/EU, in particular as regards Articles 3, 4 and 7 of that Directive;

▌

(c) when requested by the Commission, provide opinions on the technical and factual issues that arise with regard to Article 2(5c), Article 3(2) and (3), Article 4(4), point (c), and Article 28a(7) of Directive 2010/13/EU;

(d) in ***consultation*** with the Commission, draw up opinions with respect to:

(i) requests for cooperation ▌ between national regulatory authorities or bodies, in accordance with Article 14(5) of this Regulation;

(ii) requests for enforcement measures in the event of disagreement between the requesting authority or body and the requested authority or body, including recommended actions***,*** pursuant to Article 15(3) of this Regulation;

(iii) national measures concerning media ***services from*** outside the Union, in accordance with Article 17(2) of this Regulation;

(e) at the request of a media service provider with which a provider of a very large online platform has engaged in a dialogue as referred to in Article 18(6) of this Regulation, draw up opinions on the outcome of such a dialogue;

(f) ***on its own initiative, at the*** request of the Commission ***or upon a duly justified and reasoned request of a media service provider that is individually and directly affected,*** draw up opinions with respect to ***regulatory or administrative measures which are likely to significantly affect the operation of media service providers in the internal market for media services, in accordance with Article 21(4) of this Regulation;*** ▌

(g) draw up opinions on draft ***assessments or draft opinions of national regulatory authorities or bodies,*** in accordance with Article 22(5) of this Regulation;

(h) on its own initiative or at the request of the Commission, draw up opinions with respect to media market concentrations which are likely to affect the functioning of the internal market for media services, in accordance with Article 23(1) of this Regulation;

(i) assist the Commission in drawing up guidelines with respect to:

(i) the application of this Regulation and ***the implementation of*** Directive ***2010/13/EU***, in accordance with Article 16(2) of this Regulation;

(ii) the ***elements referred to in Article 22(2), points (a), (b) and (c)***, of this Regulation, in accordance with paragraph (3) of that Article;

(iii) the application of Article 24(1), (2) and (3) of this Regulation pursuant to paragraph (4) of that Article;

(j) at the request of at least one of the national regulatory authorities ***or bodies*** concerned, mediate in the event of disagreements between national regulatory authorities or bodies, in accordance with Article 15(3) of this Regulation;

(k) foster cooperation on ***harmonised*** standards related to ▌ the design of devices or user interfaces ***or to digital signals carried by such devices***, in accordance with Article ***20(5)*** of this Regulation;

(l) coordinate ***relevant measures by the*** national ***regulatory authorities or bodies concerned*** related to the dissemination of or access to content of media ***services from*** outside of the Union that target ***or reach*** audiences in the Union, where ***such media services*** prejudice or present a serious and grave risk of prejudice to public security***, in accordance with Article 17(1) of this Regulation, and develop, in consultation with the Commission, a set of criteria*** as referred to in paragraph ***4*** of that Article;

(m) organise a structured dialogue between providers of very large online platforms and representatives of media service providers and of civil society, and report on the results of such a dialogue to the Commission, in accordance with Article 19 of this Regulation;

(n) foster the exchange of best practices related to the deployment of audience measurement systems, in accordance with Article 24(5) of this Regulation;

(o) exchange experience and best practices on media literacy, including to foster the development and use of effective measures and tools to strengthen media literacy;

(p) draw up a detailed annual report on its activities and tasks.

The Board shall make the detailed annual report referred to in point (p) of the first subparagraph publicly available. When invited to do so, the Chair shall present that report to the European Parliament.

2. Where the Commission requests advice or opinions from the Board, it may indicate a time limit, unless otherwise provided for in Union law, taking into account the urgency of the matter.

3. The Board shall forward its deliverables to the contact committee established by Article 29(1) of Directive 2010/13/EU (the 'contact committee').

Section 3

Regulatory cooperation and convergence

Article 14

Structured cooperation

1. A national regulatory authority or body ▌ (the 'requesting authority') ***may at any time request*** one or more other national regulatory authorities or bodies (the 'requested authorities') to cooperate with it, ***including by exchanging information*** or ***by means of*** mutual assistance***,*** for the ▌ consistent and effective application ***of this Chapter*** or the ***implementation of*** Directive 2010/13/EU.

▌

2. A request for cooperation ▌ shall contain all the necessary information ***related to it***, including the purpose of and reasons for the request for cooperation.

3. The requested authority may refuse to address a request for cooperation only in the following cases:

   (a) it is not competent with regard to the subject matter of the request for cooperation or ***to provide the type of cooperation*** requested***;***

   (b) the execution of the request for cooperation would infringe this Regulation, Directive 2010/13/EU or other Union law or ***national*** law which complies with Union law and to which the requested authority is subject;

(c) the scope or the subject matter of the request for cooperation ***has not been duly justified or is disproportionate.***

The requested authority shall***, without undue delay,*** provide the reasons for any refusal to address a request for cooperation. ***Where the requested authority has refused a request for cooperation under point (a) of the first subparagraph, it shall, where possible, indicate the competent authority.***

▌

4. The requested authority shall do its utmost to address and reply to a request for cooperation without undue delay ***and*** provide ▌ regular updates on the progress made in executing that request. ▌

5. Where the requesting authority ***considers that*** the requested authority ***has not sufficiently addressed or replied*** to its request for cooperation, it shall inform the requested authority without undue delay, explaining the reasons for its position. Where the ***requesting authority and the*** requested authority ***do not come to an agreement concerning the request*** for cooperation, either authority may refer the matter to the Board. ***In accordance with timelines to be established by the Board in its rules of procedure***, the Board shall issue, in ***consultation*** with the Commission, an opinion on the matter, including recommended actions. The ***authorities concerned*** shall do ***their utmost*** to take into account the opinion of the Board.

6. ***Where a requesting authority considers that there is a serious and grave risk of limitation of the freedom to provide or receive media services in the internal market or a serious and grave risk of prejudice to public security, it may submit a request to a requested authority to provide accelerated cooperation, while ensuring compliance with fundamental rights, in particular the freedom of expression, including for the purpose of ensuring the effective application of national measures referred to in Article 3 of Directive 2010/13/EU. The requested authority shall reply to and do its utmost to address requests for accelerated cooperation within 14 calendar days.***

Paragraphs 2, 3 and 5 of this Article shall apply mutatis mutandis to requests for accelerated cooperation.

7. The Board shall set out ***in its rules of procedure further details on the procedure for structured cooperation as referred to in this Article .***

Article 15

Requests for enforcement of obligations ***of*** *video-sharing* ***platform providers***

1. Without prejudice to Article 3 of Directive 2000/31/EC, a ***requesting authority may submit a duly justified*** request ***to*** a ***requested authority which is competent for the subject matter of the request*** to take necessary and proportionate actions for the effective enforcement of the obligations imposed on video-sharing ***platform providers*** under Article ***28b(1), (2) and (3)*** of Directive 2010/13/EU.

2. The requested ***authority shall inform the requesting authority***, without undue delay***, of the actions it has taken or plans to take, or*** about the ***reasons for which*** actions ***were not taken,*** pursuant to ***a request for enforcement under*** paragraph 1. ***The Board shall establish the timelines for that purpose in its rules of procedure.***

3. In the event of a disagreement between the requesting ▌ authority ▌ and the requested authority ***regarding actions taken or planned to be taken or a lack of actions*** following a request for enforcement under paragraph 1, either authority ▌ may refer the matter to the Board for mediation with a view to finding an amicable solution.

Where no amicable solution is found following mediation by the Board, the requesting ▌ authority ▌ or the requested ▌ authority ▌ may request the Board to issue an opinion on the matter. In its opinion, the Board shall assess whether the ▌ request for enforcement under paragraph 1 ***has been sufficiently addressed***. Where the Board considers that the requested authority has not ***sufficiently addressed*** the request for enforcement, the Board shall recommend actions to ***address*** the request. The Board shall issue its opinion, in ***consultation*** with the Commission, without undue delay.

4. ***Following receipt of an opinion as referred to in paragraph 3, second subparagraph, the requested authority*** shall, without undue delay and within ***timelines to be established by the Board in its rules of procedure***, inform the Board, the Commission and the requesting authority ▌ of the actions taken or planned to be taken in relation to the opinion.

Article 16

Guidance on media regulation matters

1. The Board shall foster the exchange of best practices among the national regulatory authorities or bodies, consulting stakeholders ▌ where appropriate ▌ , on regulatory, technical or practical aspects relevant to the consistent and effective application of this ***Chapter*** and the ***implementation of*** Directive 2010/13/EU.

2. Where the Commission issues guidelines related to the application of this Regulation or the ***implementation of*** Directive 2010/13/EU, the Board shall assist it by providing expertise on regulatory, technical or practical aspects, in particular as regards:

   (a) the appropriate prominence of audiovisual media services of general interest under Article 7a of Directive 2010/13/EU;

   (b) making information accessible on the ownership structure of media service providers, as provided for by Article 5(2) of Directive 2010/13/EU ***and Article 6(1) of this Regulation***.

   Where the Commission issues guidelines related to the implementation of Directive 2010/13/EU, it shall consult the contact committee.

3. ***Where*** the Commission ***issues*** an opinion on ***a*** matter related to the application of this Regulation or the ***implementation of*** Directive 2010/13/EU***,*** the Board shall assist the Commission ▌ .

▌

Article 17

Coordination of measures concerning media ***services from*** *outside the Union*

1. ***Without prejudice to Article 3 of Directive 2010/13/EU,*** the Board shall***, at the request of the national regulatory authorities or bodies from at least two Member States,*** coordinate ***relevant*** measures by ***the*** national regulatory authorities or bodies ***concerned*** related to the dissemination of or access to media services ***originating from outside the Union or*** provided by media service providers established outside the Union that***, irrespective of their means of distribution or access,*** target ***or reach*** audiences in the Union where, inter alia, in view of the control that could be exercised by third countries over them, such media services prejudice or present a serious and grave risk of prejudice to public security ▌ .

2. The Board, in ***consultation*** with the Commission, may issue opinions on appropriate measures as referred to in paragraph 1. ***Without prejudice to their powers under national law, the*** competent national authorities ***concerned***, including the national regulatory authorities or bodies, shall do their utmost to take into account the opinions of the Board.

3. Member States shall ensure that the national regulatory authorities or bodies concerned are not precluded from taking into account an opinion issued by the Board under paragraph 2 when considering taking measures as referred to in paragraph 1 against a media service provider.

4. The Board, in consultation with the Commission, shall develop a set of criteria for the use of national regulatory authorities or bodies when they exercise their regulatory powers over media service providers as referred to in paragraph 1. National regulatory authorities or bodies shall do their utmost to take those criteria into account.

Section 4

Provision of *and access to* media services in a digital environment

Article 18

Content of media service providers on very large online platforms

1. Providers of very large online platforms shall provide a functionality allowing recipients of their services to***:***

(a) ***declare that they are*** media service ***providers***;

(b) declare that they comply with Article 6(1);

(c) ***declare that they are*** editorially independent from Member States***, political parties,*** third countries ▌ and ***entities controlled or financed by third countries;***

(d) ***declare that they are*** subject to regulatory requirements for the exercise of editorial responsibility in one or more Member States ***and to oversight by a competent national regulatory authority or body or that they adhere to a co-regulatory or self-regulatory*** mechanism governing editorial standards ***that is*** widely recognised ***by*** and accepted in the relevant media sector in one or more Member States***;***

(e) declare that they do not provide content generated by artificial intelligence systems without subjecting it to human review or editorial control;

(f) provide their legal name and contact details, including an email address, through which the provider of the very large online platform can communicate quickly and directly with them; and

(g) provide the contact details of the relevant national regulatory authorities or bodies or representatives of the co-regulatory or self-regulatory mechanisms referred to in point (d).

Where there is reasonable doubt concerning the media service provider's compliance with point (d) of the first subparagraph, the provider of a very large online platform shall seek confirmation on the matter from the relevant national regulatory authority or body or the relevant co-regulatory or self-regulatory mechanism.

2. Providers of very large online platforms shall ensure that the information declared under paragraph 1, with the exception of the information set out in paragraph 1, first subparagraph, point (f), is made publicly available in an easily accessible manner on their online interface.

3. Providers of very large online platforms shall acknowledge receipt of declarations submitted pursuant to paragraph 1 and provide their contact details, including an email address, through which the media service provider can communicate directly and quickly with them.

Providers of very large online platforms shall, without undue delay, indicate whether they accept or reject declarations submitted pursuant to paragraph 1.

4. Where a provider of ***a*** very large online platform ***intends to take a decision to suspend*** the provision of its online intermediation services in relation to content provided by a media service provider that has submitted a declaration pursuant to paragraph 1 of this Article ***or a decision to restrict the visibility of such content, on the grounds that such content is incompatible with its terms and conditions***, prior to such a decision to suspend ***or restrict visibility*** taking effect, ***it shall:***

(a) communicate to the media service provider concerned a statement of reasons as referred to in Article 4(1) of Regulation (EU) 2019/1150 and Article 17 of Regulation (EU) 2022/2065 for its envisaged decision to suspend or restrict visibility; and

(b) give the media service provider the opportunity to reply to the statement of reasons referred to in point (a) of the first subparagraph of this paragraph within 24 hours of receiving it or, in the case of a crisis as referred to in Article 36(2) of Regulation (EU) 2022/2065, within a shorter timeframe which allows the media service provider sufficient time to reply in a meaningful manner.

Where, following or in the absence of a reply as referred to in point (b) of the first subparagraph, the provider of a very large online platform takes a decision to suspend or restrict visibility, it shall inform the media service provider concerned without undue delay.

This paragraph shall not apply where providers of very large online platforms suspend the provision of their services in relation to content provided by a media service provider or restrict the visibility of such content in compliance with their obligations pursuant to Articles 28, 34 and 35 of Regulation (EU) 2022/2065 and Article 28b of Directive 2010/13/EU or with their obligations relating to illegal content pursuant to Union law.

5. Providers of very large online platforms shall take all the necessary technical and organisational measures to ensure that complaints lodged ***by media service providers*** under Article 11 of Regulation (EU) 2019/1150 ***or Article 20 of Regulation (EU) 2022/2065*** are processed and decided upon with priority and without undue delay. ***A media service provider may be represented by a body in the internal complaint-handling process referred to in those Articles.***

6. Where a media service provider that has submitted a declaration pursuant to paragraph 1 considers that a provider of ***a*** very large online platform ***has repeatedly*** restricted or suspended, without sufficient grounds, the provision of its services in relation to content provided by the media service provider, the provider of ***a*** very large online platform shall engage in a meaningful and effective dialogue with the media service provider, at its request, in good faith with a view to finding an amicable solution***, within a reasonable timeframe,*** for terminating unjustified restrictions or suspensions and avoiding them in the future. The media service provider may notify the outcome ***and the details*** of such a dialogue to the Board ***and to the Commission***. ***The media service provider may request the Board to issue an opinion on the outcome of such a dialogue, including, where relevant, recommended actions for the provider of a very large online platform. The Board shall inform the Commission of its opinion.***

7. ***Where a provider of a very large online platform rejects or invalidates a declaration by a media service provider submitted pursuant to paragraph 1 of this Article or where no amicable solution is found following a dialogue pursuant to paragraph 6 of this Article, the media service provider concerned may resort to mediation under Article 12 of Regulation (EU) 2019/1150 or to out-of-court dispute settlement under Article 21 of Regulation (EU) 2022/2065. The media service provider concerned may notify the Board of the outcome of that mediation or out-of-court dispute settlement.***

8. A provider of a very large online platform shall make publicly available on an annual basis ***detailed*** information on:

(a) the number of instances in which it imposed any restriction or suspension on the grounds that the content provided by a media service provider that has submitted a declaration pursuant to paragraph 1 ▌ is incompatible with its terms and conditions; ▌

(b) the grounds for imposing such restrictions ***or suspensions, including the specific clauses in its terms and conditions with which the media service providers' content was deemed incompatible;***

(c) the number of dialogues with media service providers pursuant to paragraph 6;

(d) the number of instances in which it rejected declarations submitted by a media service provider pursuant to paragraph 1 and the grounds for rejection;

(e) the number of instances in which it invalidated a declaration submitted by a media service provider pursuant to paragraph 1 and the grounds for invalidation.

9. With a view to facilitating the consistent and effective implementation of this Article, the Commission ***shall*** issue guidelines to ***facilitate the effective implementation*** of the ***functionality referred to*** in paragraph 1.

Article 19

Structured dialogue

1. The Board shall regularly organise a structured dialogue between providers of very large online platforms, representatives of media service providers and representatives of civil society ***in order to:***

   (a) discuss experience and best practices in the application of Article 18, including as regards the functioning of very large online platforms and their processes for moderating content provided by media service providers;

   (b) foster access to diverse offerings of independent media on very large online platforms; and

   (c) monitor adherence to self-regulatory initiatives which aim to protect users from harmful content, including disinformation and foreign information manipulation and interference.

2. The Board shall report on the results of structured dialogues as referred to in paragraph 1 to the Commission***. Where possible, the Board shall make the results of such structured dialogues publicly available***.

Article 20

Right to customise ▌ the media offering

1. Users shall have a right to easily change the ***configuration, including*** default settings***,*** of any device or user interface controlling or managing access to and the use of ▌ media services ***providing programmes*** in order to customise the ▌ media offering in accordance with their interests or preferences in compliance with Union law. This paragraph shall not affect national measures implementing Article 7a ***or 7b*** of Directive 2010/13/EU.

2. When placing devices and user interfaces as referred to in paragraph 1 on the market, manufacturers***, developers and importers*** shall ensure that ***such devices and user interfaces*** include a functionality enabling users to freely and easily change ***at any time their configuration, including*** default settings controlling or managing access to and use of the ▌ media services offered.

3. Manufacturers, developers and importers of devices and user interfaces as referred to in paragraph 1 shall ensure that the visual identity of media service providers to whose services their devices and user interfaces give access is consistently and clearly visible to the users.

4. Member States shall take appropriate measures to ensure that manufacturers, developers and importers of devices and user interfaces as referred to in paragraph 1 comply with paragraphs 2 and 3.

5. The Board shall foster cooperation between media service providers, standardisation bodies or any other relevant stakeholders in order to promote the development of harmonised standards related to the design of devices or user interfaces as referred to in paragraph 1 or to digital signals carried by such devices.

Section 5

Requirements for well-functioning media market measures and procedures

Article 21

National measures affecting ▌ media service providers

1. ▌ Legislative, regulatory or administrative ***measures*** taken by a Member State that ***are*** liable to affect ***media pluralism or the editorial independence*** of media service providers ***operating*** in the internal market shall be duly justified and proportionate. Such measures shall be reasoned, transparent, objective and non-discriminatory.

2. Any national procedure used for the purpose of ▌ adopting ***an*** administrative measure as referred to in paragraph 1 shall follow ▌ timeframes set out in advance***. Such procedures shall be conducted without undue delay***.

3. ▌ Any media service provider subject to ***a regulatory or administrative*** measure as referred to in paragraph 1 that concerns it individually and directly shall have the right to appeal that measure before an appellate body. That body***, which may be a court,*** shall be independent of the parties involved and of any external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. It shall have the appropriate expertise to enable it to carry out its functions effectively ***and in a timely manner***.

4. ***Where a regulatory or administrative measure as referred to in paragraph 1 is likely to significantly affect the operation of media service providers in the internal market,*** the Board ***shall, on its own initiative,*** at the request of the Commission ***or upon a duly justified and reasoned request of a media service provider that is individually and directly affected by such a measure, draw up an*** opinion ***on the measure.*** Without prejudice to its powers under the Treaties, the Commission may issue its own opinion on the matter. ▌ The Board and ▌ the Commission shall ***make their opinions*** publicly available.

5. ***For the purpose of drawing up an opinion under paragraph 4,*** the Board and, where applicable, ▌ the Commission ***may request relevant information from a national authority or body that has adopted a regulatory or administrative measure as referred to in paragraph 1 that affects a media service provider individually and directly.*** The national authority or body ***concerned shall provide that information without undue delay by electronic means***.

Article 22

Assessment of media market concentrations

1. Member States shall lay down, ***in*** national ***law***, substantive and procedural rules which ***allow for*** an assessment of media market concentrations that could have a significant impact on media pluralism and editorial independence. Those rules shall:

   (a) be transparent, objective, proportionate and non-discriminatory;

   (b) require the parties ***involved in such a*** media market concentration ***to notify the concentration in advance to the relevant national authorities or bodies or provide such authorities or bodies with appropriate powers to obtain information from those parties which is necessary to assess the concentration***;

(c) designate the national regulatory ***authorities or bodies*** as the ones responsible for the assessment ▌ or ensure that ***they are substantively involved*** in the assessment;

(d) set out in advance objective, non-discriminatory and proportionate criteria for notifying ***such*** media market concentrations ▌ and for assessing the impact ▌ on media pluralism and editorial independence; and

(e) specify in advance the timeframes for completing such assessments.

The assessment of media market concentrations referred to in this paragraph shall be distinct from ***Union and national*** competition law assessments***,*** including those provided for under merger control rules. It shall be without prejudice to Article 21(4) of Regulation (EC) No 139/2004, where applicable.

2. In an assessment of media market concentrations as referred to in paragraph 1, the following elements shall be taken into account:

(a) the ***expected*** impact of the ***media market*** concentration on media pluralism, including its effects on the formation of public opinion and on the diversity of media ***services and the media offering*** on the market, taking into account the online environment and the parties' interests in, links to or activities in other media or non-media businesses;

(b) the safeguards for editorial independence, including the ***measures taken*** by media service providers ▌ with a view to guaranteeing the independence of ▌ editorial decisions;

(c) whether, in the absence of the ***media market*** concentration, the ***parties involved in the media market concentration*** would remain economically sustainable, and whether there are any possible alternatives to ensure ***their*** economic sustainability;

(d) where relevant, the findings of the Commission's annual rule of law report concerning media pluralism and media freedom; and

(e) where applicable, the commitments that any of the parties involved in the media market concentration might offer to safeguard media pluralism and editorial independence.

3. The Commission, assisted by the Board, ***shall*** issue guidelines on the ***elements referred to in paragraph 2, points (a), (b) and (c)***.

4. ***Where a media market concentration is likely to affect the functioning of the internal market for*** media ***services, the national regulatory authority or body concerned shall consult the Board in advance on its draft assessment or draft opinion.***

5. Within ***timelines to be established by the Board in its rules of procedure***, the Board shall draw up an opinion on the draft ***assessment or draft*** opinion ***referred to in paragraph 4***, taking into account the elements referred to in paragraph 2, and transmit that opinion to ***the national regulatory authority or body concerned*** and the Commission.

6. The national regulatory authority or body referred to in paragraph 4 shall take utmost account of the opinion referred to in paragraph 5. Where that national regulatory authority or body does not follow the opinion, fully or partially, it shall provide the Board and the Commission with a reasoned justification explaining its position within ***timelines to be established by the Board in its rules of procedure.***

Article 23

Opinions on media market concentrations

1. In the absence of an assessment or a consultation pursuant to Article 22, the Board, ***on its own initiative or*** at the request of the Commission, shall draw up an opinion on the impact of a media market concentration on media pluralism and editorial independence, where that media market concentration is likely to affect the functioning of the internal market for media services. The Board shall base its opinion on the elements referred to in Article 22(2). The Board may bring ***such*** media market concentrations ▌ to the attention of the Commission.

2. ▌ Without prejudice to its powers under the Treaties, the Commission may issue its own opinion on the matter.

3. ▌ The Board and ▌ the Commission shall ***make their opinions as referred to in this Article*** publicly available.

Section 6

Transparent and fair allocation of economic resources

Article 24

Audience measurement

1. ***Providers of*** audience measurement systems ***shall ensure that their*** audience measurement ***systems and the methodology used by their*** audience measurement ***systems*** comply with ***the*** principles of transparency, impartiality, inclusiveness, proportionality, non-discrimination***, comparability*** and verifiability.

2. Without prejudice to the protection of undertakings' ***trade*** secrets ***as defined in Article 2, point (1), of Directive (EU) 2016/943,*** providers of proprietary audience measurement systems shall provide, without undue delay and free of ***charge***, to media service providers***, to*** advertisers ***and*** to third parties authorised by media service providers and advertisers ▌ accurate, detailed, comprehensive, intelligible and up-to-date information on the methodology used by their audience measurement systems.

Providers of proprietary audience measurement systems shall ***ensure that the methodology used by their*** audience measurement ***systems and the way in which it is applied is independently audited once a year. At the request of a media service provider, a provider of a proprietary audience measurement system shall provide it with information on audience measurement results, including non-aggregated data, which relate to the media content and media services of that media service provider.***

This paragraph shall not affect the Union's data protection and privacy rules.

3. National regulatory authorities or bodies shall encourage ***providers of audience measurement systems to draw up, together with media service providers, providers of online platforms, their representative organisations and any other interested parties,*** codes of conduct ***or shall encourage*** providers of audience measurement systems ***to comply with codes of conduct jointly agreed and widely accepted by*** media service providers, their representative organisations and any other interested parties**.**

Codes of conduct as referred to in the first subparagraph of this paragraph shall be intended to promote the regular, independent and transparent monitoring of the effective achievement of their objectives and compliance with the principles referred to in paragraph 1, including ***through*** independent and transparent audits.

4. The Commission, assisted by the Board, may issue guidelines on the practical application of paragraphs 1, 2 and 3***, taking into account, where appropriate, codes of conduct as referred to in paragraph 3***.

5. The Board shall foster the exchange of best practices related to the deployment of audience measurement systems through a regular dialogue between representatives of the national regulatory authorities or bodies, representatives of providers of audience measurement systems***, representatives of media service providers, representatives of providers of online platforms*** and other interested parties.

Article 25

Allocation of ***public funds for*** *state advertising* ***and supply or service contracts***

1. Public funds or any other consideration or advantage ***made available, directly or indirectly,*** by public authorities ***or entities*** to media service providers ***or providers of online platforms*** for ***state*** advertising ***or supply or service contracts concluded with media service providers or providers of online platforms*** shall be awarded in accordance with transparent, objective, proportionate and non-discriminatory criteria, ***made publicly available in advance by electronic and user-friendly means,*** and by means of open, proportionate and non-discriminatory procedures.

Member States shall seek to ensure that the overall yearly public expenditure allocated for state advertising is distributed to a wide plurality of media service providers represented on the market, taking into account the national and local specificities of the media markets concerned.

This Article shall not affect ***the awarding of public contracts and concession contracts under Union*** public procurement ***rules or the application of Union State aid*** rules.

2. Public authorities ***or*** entities ▌ shall make publicly available ***by electronic and user-friendly means*** information on an annual basis about their public expenditure for ***state*** advertising ▌ . That information shall include at least the following:

   (a) the legal names of the media service providers ***or the providers of online platforms*** from which ▌ services were purchased;

(b) where applicable, the legal names of the business groups of which any media service providers or providers of online platforms as referred to in point (a) are part; and

(c) the total annual amount spent and the annual amounts spent per media service provider ***or provider of an online platform***.

Member States may exempt subnational governments of territorial entities of less than 100 000 inhabitants, and entities controlled, directly or indirectly, by such subnational governments, from the obligation under point (b) of the first subparagraph.

3. National regulatory authorities or bodies ***or other competent independent authorities or bodies in the Member States*** shall monitor ***and report annually on*** the allocation of state advertising expenditure ***to media service providers and to providers of online platforms based on the information listed in paragraph 2. Those annual reports shall be made publicly available in an easily accessible manner***.

In order to assess the ***completeness*** of the information on state advertising made available pursuant to paragraph 2, national regulatory authorities or bodies ***or other competent independent authorities or bodies in the Member States*** may request from ***the public authorities or*** entities ***referred to in*** the first subparagraph of paragraph 2 further information, including ***more detailed*** information on the application of ***the*** criteria ***and procedures*** referred to in paragraph 1.

Where the monitoring, assessment and reporting are carried out by other competent independent authorities or bodies in the Member States, they shall keep the national regulatory authorities or bodies duly informed.

Chapter IV
Final provisions

Article 26

Monitoring exercise

1. The Commission shall ensure that the internal market for media services, including risks to and progress in its functioning ▌ , is independently and continuously monitored (the 'monitoring exercise'). The findings of that monitoring exercise shall be subject to consultation with the Board ***and shall be presented to and discussed with the contact committee.***

2. The Commission shall, in consultation with the Board, define key performance indicators for, methodological safeguards to protect the objectivity of and criteria for selecting the researchers for the monitoring exercise .

3. The monitoring exercise shall include:

   (a) a detailed analysis of ▌ media markets in all Member States, including as regards the level of media concentration and risks of foreign information manipulation and interference;

   (b) an overview and forward-looking assessment of the ***functioning*** of the internal market for media services as a whole***, including as regards the impact of online platforms***;

(c) an overview of risks to media pluralism and the editorial independence of media service providers where they could impact the functioning of the internal market;

(d) an overview of measures taken by media service providers with a view to guaranteeing the independence of ▌ editorial decisions***;***

(e) a detailed overview of frameworks and practices for the allocation of public funds for state advertising.

4. The monitoring exercise shall be carried out annually***. The results of the monitoring exercise, including the methodology and data used therefor,*** shall be made publicly available ***and presented annually to the European Parliament***.

Article 27

Evaluation and reporting

1. By … [***51 months from the date of entry into force of this Regulation]***, and every four years thereafter, the Commission shall evaluate this Regulation and report to the European Parliament, the Council and the European Economic and Social Committee.

2. In the first such evaluation referred to in paragraph 1 of this Article, the Commission shall in particular examine the effectiveness of the functioning of the Board's secretariat referred to in Article 11, including as regards the adequacy of resources in relation to the performance of its tasks.

3. For the purposes of paragraph 1 and at the request of the Commission, Member States and the Board shall send it relevant information.

4. In carrying out the evaluations referred to in paragraph 1 of this Article, the Commission shall take into account:

(a) the positions and findings of the European Parliament, the Council and other relevant bodies or sources;

(b) outcomes of the relevant discussions carried out in relevant fora;

(c) relevant documents issued by the Board;

(d) the findings of the monitoring exercise referred to in Article 26.

5. The reports referred to in paragraph 1 may be accompanied, where appropriate, by a proposal to amend this Regulation.

Article 28

Amendments to Directive 2010/13/EU

Directive 2010/13/EU is amended as follows:

(1) Article 30b is deleted.

(2) References to Article 30b of Directive 2010/13/EU shall be construed as references to Article 13(1), point (c), of this Regulation.

Article 29

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from … [***15*** months from the date of entry into force of this Regulation]▌ . However:

(a) ***Article 3 shall apply from … [6 months from the date of entry into force of this Regulation];***

(b) Article ***4(1) and (2), Article 6(3) and Articles*** 7 to 13 and 28 shall apply from … [***9*** months from the date of entry into force of this Regulation]***;***

(c) Articles 14 to 17 shall apply from … [12 months from the date of entry into force of this Regulation];

(d) Article 20 shall apply from … [***36*** months from the date of entry into force of this Regulation] ▌.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*