



Council of the European Union
General Secretariat

Brussels, 12 April 2023

WK 3991/2023 COR 1 ADD 1

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NOTE

From:	General Secretariat of the Council
To:	Audiovisual and Media Working Party (Attachés) Audiovisual and Media Working Party
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 - Comments from LV

Delegations will find attached comments on the above-mentioned document from LV delegation.

LV COMMENTS:

Written comments from delegation of Latvia regarding Articles 7, 11, 12, 14, 16 and Articles 23 – 24

Article 7

National regulatory authorities or bodies

[...]

4. **Upon the request**, ~~Where needed for carrying out their tasks under this Regulation, the national regulatory authorities or bodies~~ **are empowered to request** the natural or legal persons to which Chapter III applies **shall** to provide, within a reasonable time period, **the national regulatory authorities or bodies with** information **and data** that is proportionate and necessary for carrying out **their** tasks under Chapter III. [...]

Justification: NRAs may already request information, as indeed can any citizen. Following the suggestion of CLS, we propose that the natural or legal persons concerned be obliged to provide the necessary information to the NRAs.

Article 11

Secretariat of the Board

1. The Board shall have a secretariat, which shall be provided by the Commission.
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. **In particular, it** shall provide administrative and organisational support to the activities of the Board [...].
3. **The secretariat shall coordinate closely with the Board and its Chair. When assisting the Board with drawing up opinions, the secretariat shall follow the guidancee instructions of the Board as regards the content of such opinions.**

Justification: Latvia fully supports the Presidency's compromise proposal regarding the Secretariat of the Board. Latvia believes this is the most cost-effective solution and the last compromise text provides sufficient guarantees for its independence. While the Secretariat is provided by the Commission, the text could state more clearly that it takes its instructions only from the Board.

Article 12
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 its competence [...] **as well as** promote the effective and consistent application of **Chapter III** of this Regulation and **the implementation of** Directive 2010/13/EU throughout the Union. The Board shall therefore:

[...]

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

(iii) national measures concerning media **services originating or established** ~~from~~ outside of the Union, in accordance with Article 16(2) of this Regulation;

(k) coordinate national measures related to the dissemination of or access to content of media **services ~~from~~ originating or established** 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, including the safeguarding of national** security and defence, in accordance with Article 16(1) of this Regulation;

[...]

Article 16

Coordination of measures concerning media services **originating or established** ~~from~~
outside the Union

Justification: Latvia fully supports changes introduced in the Article 16 and corresponding recitals. To reflect the changes made in Article 16 and to align the wording throughout the Regulation, Latvia proposes slight changes to the subpoints (e) and (k) of Article 12 and in the title of Article 16. In addition, Latvia would welcome a proposal and addition to the tasks that the Board should have the possibility to act on its own initiative.

Article 14

Requests for enforcement of **the** obligations ~~by~~ **of** video-sharing platforms

Justification: The title as it stands implies that the video-sharing platforms are requesting enforcement of obligations. Therefore, Latvia offers an alternative to reflect what is actually meant.

Section 6

Transparent and fair allocation of economic resources

Article 23

Audience measurement

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

Justification: Latvia continues to point out that it is necessary to ensure that the methodologies for measuring audiences are as transparent as possible, as well as comparable. While the pursuit of comparability of methodologies must take into account that there are various sector-specific aspects which make it difficult to compare accurately the data obtained from the different methodologies used, comparability of data is very important for advertisers in order to guarantee openness and trust.

2. ~~Without prejudice to the protection of undertakings' business secrets,~~ Providers of proprietary audience measurement systems shall provide, without undue delay and free of costs, to media service providers and advertisers, as well as 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. This provision shall not affect the Union's data protection and privacy rules.

Justification: With regard to 23(2), Latvia agrees with the opinion of the European Parliament's Committee on Internal Market and Consumer Protection, which is that the phrase "Without prejudice to the protection of undertaking's business secrets" should be deleted. The phrase is open to wide interpretation and could be by used by individual parties as grounds to refuse disclosing their audience measurement methodology. The requirement to provide accurate, detailed, comprehensive, comprehensible and up-to-date information on the methodology used by their audience measurement systems and audiences should also apply to all companies operating in the online advertising market (including those that do not allow independent media audience research companies to study the results of their audiences and advertising campaigns), in order to ensure a level playing field for all players in the online advertising market.

Article 24

Allocation of public funds for state advertising and purchases

1. Public funds or any other consideration or advantage granted by public authorities to media service providers **or online platforms** for the purposes of state advertising or for the purpose of purchasing goods or services from them shall be awarded according to transparent, objective, proportionate and non-discriminatory criteria and through open, proportionate and non-discriminatory procedures. 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.

Justification: A general remark, Latvia invites to harmonize approach throughout the Regulation regarding references to online platforms. Every Article that covers online platforms should explicitly refer to them in order to avoid any possibility of interpretation. Regarding 24(1), Latvia invites to extend the scope of the Article to online platforms, given their impact and wide use by public institutions in communicating with the public. Consequently, information on the use of public funds by the media or online platforms should be transparent, especially in pre-election periods. The extension of the scope of the Article allows for the monitoring of the use of administrative resources for political purposes.

2. Public authorities, [...] ~~excluding subnational governments of territorial entities of less than 100,000 inhabitants,~~ shall make publicly available accurate, comprehensive, intelligible, detailed and yearly information about their state advertising expenditure [...], which shall include at least the following details:

(a) the legal names of media service providers from which advertising services were purchased;

(b) the total annual amount spent as well as the amounts spent per media service provider.

Justification: Latvia cannot agree with the new threshold of the 100 000 population – in Latvia's case and in the case of other MS too, this would still exclude many major municipalities. For example, in Latvia, there is only one city – Riga – with a population above 100 000 inhabitants. Assuming that all public authorities are already accountable for the use of public funds, the extra administrative burden would be negligible and therefore Latvia strongly supports the deletion of any threshold in 24(2).

3. ~~National regulatory authorities or bodies shall~~ **Member States shall designate one or more authorities or bodies competent to** monitor the allocation of state advertising in media markets. In order to assess the completeness of the information on state advertising made available pursuant to paragraph 2, ~~national regulatory~~ **the monitoring** authorities or bodies may request from those public authorities that fall under paragraph 2 further information, including information on the application of criteria referred to in paragraph 1.

Justification: Regarding 24(3), LV is in favour of a more flexible solution and considers that the MS should be given the right to decide on the most appropriate body to monitor the allocation of public service advertising in the media, particularly since the new wording only foresees the obligation to assess the completeness, not the accuracy of the information provided. In the case of LV, the most appropriate body to carry out this obligation nationally would be the State Audit Office, carrying out this task based on the information provided by public authorities in their public accounts, especially since LV considers that this task could impose a disproportionate burden on the NRAs.