

Forthcoming European Media Freedom Act raises concerns about the future independence of press publishers

Brussels, 28 June 2022

Excellent Minister,

The European Commission is due to adopt a proposal for the European Media Freedom Act (EMFA) in September. While we commend the European Commission for its intentions to improve press freedom throughout the Union, we the European publishers' associations EMMA, ENPA, EPC and NME are writing to you to raise our concerns about the validity of such an intervention and to pose some questions for your consideration. We have actively engaged with the European Commission in the preparation work, have participated in the public consultation and produced position papers setting out our views in detail, which we enclose for your consideration.

It seems that the Commission is intending to cover a wide range of complex legal issues in a single proposal based on the premise that there is an internal market for all media. We must question this approach which will mix audiovisual regulation, where the EU does have some limited competence, together with matters central to the freedom of the press, which correctly is not regulated at EU level as this sensitive area remains the sole competence of the Member States based on their historic, cultural, linguistic, demographic, and democratic characteristics and specificities.

We also question the need of such an all-encompassing legal instrument, as indicated by the topics covered in the public consultation, and we wonder why the Commission does not tackle the specific problems they claim exist with sectoral or targeted approaches, including through recommendations rather than legislation.

The first Impact Assessment on the Media Freedom Act, resulted in a negative opinion by the Regulatory Scrutiny Board, whose role is to assess the soundness of the Commission's legal arguments when justifying its regulatory approach. The Board stated the Commission's internal market rationale, based on Art. 114 TFEU, was not sufficiently justified, nor was the rationale for the various harmonisation measures envisaged. The updated Impact Assessment is expected in July.

Most concerning of all is that some of the measures envisaged by the Commission would regulate the operations of newsrooms which would inherently undermine the independence of news publishers. This goes to the heart of press freedom and should continue to remain outside any EU regulatory framework as they are covered by constitutional protections of the press and freedom of expression at national level, whereby the press complies with the general law and with self-regulatory codes of practice.

We'd like to draw your attention to the reservations raised by the Finnish government regarding the forthcoming proposal: *"(...) Finland considers that the legislative proposal should take into account the differences in media regulatory cultures and markets between Member States. Therefore, the rules proposed in the legislative proposal should include flexibility, especially in Member States with a high level of freedom of expression, in order to maintain existing regulatory practices in those Member States (...)"*.¹

We take this opportunity to invite you to reflect on these questions and to make your views known to the European Commission as soon as possible, as your intervention could affect the choice of legal instrument and the scope.

We thank you for your consideration and remain at your disposal for any clarification you might need.

Yours sincerely,

Ilias Konteas
EMMA and ENPA
Executive Director

Ilias.Konteas@enpa.eu

Angela Mills – Wade
EPC
Executive Director

angela.mills-wade@epceurope.eu

Wout van Wijk
NME
Executive Director

wout.vanwijk@newsmediaeurope.eu

¹ English translation of full text attached available at this [link](#)