

Assessing Plurality in an Online World - Recent Developments in Europe

38th EPRA Meeting – Vilnius (2-4 Oct. 2013)

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VRM / KU Leuven

“MEDIA PLURALISM” WHAT?

*“Media pluralism is achieved when there is a **multiplicity of autonomous and independent media** at the **national, regional and local levels**, ensuring a **variety of media content** reflecting different **political** and **cultural** views. In the Commission’s opinion, internal pluralism must be achieved in each media sector at the same time: it would not be acceptable, for example, if pluralism were guaranteed in the print media sector, but not in the television one. Plurality of the media does not only mean, in the Commission’s view, the existence of a plurality of actors and outlets, it also means the existence of a wide range of media, that is to say **different kinds of media**.”*

Venice Commission Opinion Italian Laws (June 2005)

“MEDIA PLURALISM” WHY?

“The key that unlocks the door of freedom of information and freedom of speech”

- ❑ Article 10 ECHR -
Compound freedom:
 - Freedom of expression
 - Right to information
 - Media pluralism (cf. case law ECourtHR) > **democracy!**
- ❑ State: duty of abstention and duty of care
- ❑ See also Article 11, al. 2 EU Charter:
“The freedom and **pluralism of the media** shall be respected.”

Whereas freedom of expression might be thought of as “the right to speak” and freedom of information can be characterised as “the right to know”, pluralism of the media could be considered “the right to choose”

Both quotes from: Miklos Haraszti

ECHR, *Centro Europa 7 v. Italy* (2012)

“As it has often noted, there can be no democracy without pluralism. Democracy thrives on freedom of expression. It is of the essence of democracy to allow diverse political programmes to be proposed and debated, even those that call into question the way a State is currently organised, provided that they do not harm democracy itself.”

“...to ensure true pluralism in the audiovisual sector in a democratic society, it is not sufficient to provide for the existence of several channels or the theoretical possibility for potential operators to access the audiovisual market. It is necessary in addition to allow effective access to the market so as to guarantee diversity of overall programme content, reflecting as far as possible the variety of opinions in the society at which the programmes are aimed.”

ECHR, *Centro Europa 7 v. Italy* (2012)

“A situation whereby a powerful economic or political group in society is permitted to obtain a position of dominance over the audiovisual media and thereby exercise pressure on broadcasters and eventually curtail their editorial freedom undermines the fundamental role of freedom of expression in a democratic society as enshrined in Article 10 of the Convention, in particular where it serves to impart information and ideas of general interest, which the public is moreover entitled to receive.”



“...in such a sensitive sector as the audiovisual media, in addition to its negative duty of non-interference the State has a positive obligation to put in place an appropriate legislative and administrative framework to guarantee effective pluralism.”

“MEDIA PLURALISM” HOW?

- *How to legislate/regulate?*
 - *How to monitor?*

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‘Soft law’

- Recommendation No. R (94) 13 on measures to promote media transparency (Committee of Ministers)
- Recommendation No. R (99) 1 on measures to guarantee media pluralism (Committee of Ministers)
- Recommendation Rec (2007)2 on media pluralism and diversity of media content (Committee of Ministers)
- *Related: Recommendation Rec (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector (+ Declaration 2008); Declaration on cultural diversity (2000); Recommendation Rec(96)10 on the guarantee of the independence of public service broadcasting (+ Declaration 2006); Declaration on protecting the role of the media in democracy in the context of media concentration (2007)...*

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Tools for promoting media pluralism include:

- legislative framework establishing **limits** for **media concentration** (setting permissible thresholds, such as audience share or capital share or revenue limits, which a single media company is allowed to control in one or more relevant markets);
- specific measures against **vertical integration** (control of key elements of production, broadcasting, distribution and related activities by a single company or group);
- **transparency** of the media;
- specific and ***independent*** media regulatory **authorities** with powers to act against concentration;

[...]

COUNCIL OF EUROPE

Tools for promoting media pluralism include (ctd.): [...]

- pro-active measures to **promote** the production and broadcasting of diverse content;
- granting, on the basis of **objective and non-partisan criteria**, within the framework of transparent procedures and subject to independent control, direct or indirect **financial support** to increase pluralism;
- **access** regulation and interoperability;
- self-regulatory instruments such as editorial guidelines and statutes setting out **editorial independence**;

(Almost) all of these rules are adopted and monitored at national level



Only limited harmonisation

- ☐ **European Convention on Transfrontier Television**
(see art. 6, 10, 10bis)
- ☐ **Audiovisual Media Services Directive** (see art. 6, 10, 10bis)

Reason?

1. Diverging politico-cultural and normative approaches
2. Precarious legal basis for EU to intervene
3. Ambiguous impact of economic and technological developments

Cf. failed EU harmonisation initiative in the area of media ownership in the 90-ies: sensitive issue!

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Reason?


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RECENT DEVELOPMENTS AT EU LEVEL

❑ Under the previous Commissioner (Reding)

- Liverpool conference (2005): monitoring!
- January 2007: “3-step approach”
 - Commission Staff Working Document - Media pluralism in the Member States of the European Union, 16 January 2007, [SEC\(2007\) 32](#)
 - [Independent study](#) to define and test concrete and objective indicators for assessing media pluralism in the EU Member States (2008-2009)
 - Commission Communication (abandoned)

 Share

Independent Study on Indicators for Media Pluralism


A monitoring tool for assessing risks for media pluralism in the EU Member States.

On this page

- ▶ The objective
- ▶ The research team
- ▶ The tool
- ▶ The final output

The objective

This study develops a monitoring tool for assessing risks for media pluralism in the EU Member States and identifying threats to such pluralism based on a set of indicators, covering pertinent legal, economic and socio-cultural considerations.



The research team

It has been carried out by a group of three academic institutes, Katholieke Universiteit Leuven – ICRI, Central European University – CMCS and Jönköping International Business School – MMTC, together with a consultancy firm, Ernst & Young Belgium. This group of experts has been supported by subcontractors: non-affiliated members of the research team, members of the Quality Control Team and members of the network of local media experts ('Country Correspondents').

Media Pluralism Monitor

(cf. EPRA working group Dresden 2009)

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MEDIA PLURALISM MONITOR

| SCORES | RESULTS |
|--------|---------|
|--------|---------|

| | |
|--|---|
| Basic Domain | Report Basic Domain |
| Pluralism ownership & control | Pluralism of ownership & control |
| Pluralism media types & genres | Pluralism of media types & genres |
| Political pluralism | Political pluralism |
| Cultural pluralism | Cultural pluralism |
| Geographical pluralism | Geographical pluralism |

| |
|--------------------------------|
| General Report |
|--------------------------------|

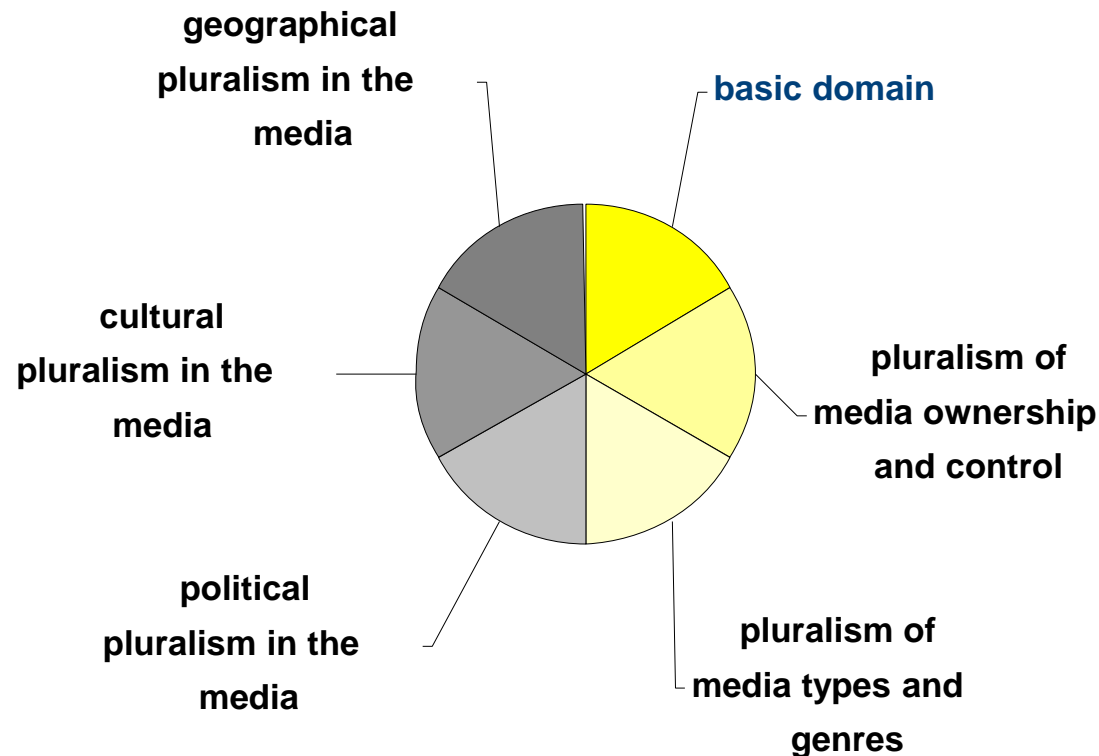
| | |
|------------|---------|
| Country | country |
| Population | large |
| GDP/Capita | high |

Result for a country with large population and a high GDP/Capita

Media Pluralism Monitor

(cf. EPRA working group Dresden 2009)

6 Risk Domains





The European Union's commitment to respect freedom and pluralism of the media, as well as the right to information and freedom of expression is enshrined in Article 11 of the [Charter of Fundamental Rights](#), similar to the provision of Article 10 of the [European Convention for the Protection of Human](#)

 Share

European Commission Vice-President Neelie Kroes has established a group to reflect on the impact of the digital revolution on European Media Industries, on the resulting risks and opportunities for everyone (industry and consumers), and on the emerging business models.

This group -established in December 2011- debates how to improve the policy framework for European media industries (against a background of economic uncertainty and reduced revenue for traditional media) and is chaired by Christian van Thillo, CEO of De Persgroep.



The aim of this Forum is to foster debates on the futures of EU media and issue recommendations on how best to incentivize quality content and journalism while seizing the benefits of the digital revolution.

The Forum draws on the knowledge and experience of more than 20 personalities from the publishing, broadcasting, advertising, telecommunications, equipment manufacturers, social media and online industries.

On 26 June 2012, two days ahead of the European Council of 28 and 29 June 2012, the EU Media Futures Forum presented its conclusions and recommendations on the futures of media industries in Europe.

The executive summary of the report sends a wake-up call to Europe. The media industry already employs more than 10 million people in the EU and the Forum members are confident that it can create many more jobs all along the value-chain if the eight concrete and actionable recommendations presented in their report were to be implemented.

The digital economy has already allowed to gain up to 8 per cent of EU GDP in 10 years and Europe could gain another 4 per cent of GDP by achieving and stimulating its Digital Single Market.

The Forum members have identified eight bottlenecks that need to be addressed if Europe is to become a world-leader in the digital revolution and come back from behind.

 Share

A free and pluralistic media landscape can sustain European democracy. The High Level Group on Media Freedom and Pluralism presented its report on January 21, 2013.



The group, which is fully independent, was established in October 2011 by Vice-President Neelie Kroes, and is chaired by the former President of Latvia, Professor Vaira Vīķe-Freiberga. The other members are Professor Herta and Paul Amirian Professor Däubler-Gmelin, Professor Luís Miguel Poiares Pessoa Maduro and Ben Hammersley.

The mandate of the group was to draw up a report for the Commission with recommendations for the respect, protection, support and promotion of pluralism and freedom of the media in Europe. The findings and recommendations of the Group are now public and are available on this page.

The Commission invited the group to analyse and provide recommendations on issues such as:

- ▶ limitations to media freedom arising from political interference (state intervention or national legislation)
- ▶ limitations to media independence arising from private and commercial interference
- ▶ the question of the concentration of media ownership and its consequence for media freedom/pluralism and on the independence of journalists
- ▶ existing or potential legal threats to the protection of journalists' rights and their profession in Member States
- ▶ the role and independence of regulatory authorities
- ▶ existing or potential measures in favour of quality journalism, ethics and media accountability, within the respective competences of national, EU and international authorities.

Home > Projects > Centre for Media Pluralism and Media Freedom (CMPF)

Centre for Media Pluralism and Media Freedom



CMPF releases its Policy Report European Union Competencies in Respect of Media Pluralism and Media Freedom

The **Centre for Media Pluralism and Media Freedom** is a project co-financed by the European Union. This initiative is a further step in the European Commission's on-going effort to improve the protection of media pluralism and media freedom in Europe and to establish what actions need to be taken at European or national levels to foster these objectives. [Read more...](#)

Policy Conference



Our conference about EU Competencies in Respect of Media Pluralism and Media Freedom was

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Latest News



Call for Papers: New Media and Journalism: challenges and opportunities for Media Freedom

Papers must be submitted by 14 April



11 March - Seminar: Definition of Relevant Markets

Marco Delmastro - Head of the Media market analysis unit at Agcom (Italian convergent regulator)

[All News](#)

The Centre is co-financed by the European Union





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#NMF27 THE EVENT

PRESS RELEASE

BACKGROUND

AIMS AND OBJECTIVES

ISSUES FOR DISCUSSION

SUPPORTERS' LIST

VENUE: EU PARLIAMENT

TESTIMONIALS

SPEAKERS

#NMF27 THE EVENT } 27 June 2012, 09.30-18.00

UNITED IN DIVERSITY

PAN-EUROPEAN FORUM ON MEDIA PLURALISM AND NEW MEDIA

Brussels Hemicycle Debating Chamber, Place du Luxembourg/Luxembourg station - 27 June 2012, 09.30-18.00



[Download full day agenda](#)



[Download Summary Report](#)

- Stay tuned for further updates on this website and at [Debating Europe](#)

In case you missed it: watch here the video of the event:



Watch on Youtube: [AM Session](#) - [PM Session](#)

OPEN

Welcome to the MEDIADDEM project

MEDIADDEM has been a European research project on media policy-making processes in EU member states and candidate countries. Its purpose has been to identify which policy processes, tools and instruments can best support the development of free and independent media. It was funded by the European Commission's Seventh Framework Programme and was coordinated by the Hellenic Foundation for European and Foreign Policy. The project started on April 1st, 2010 and lasted for three years.

[More »](#)


Project funded under the
Socio-economic Sciences and
Humanities

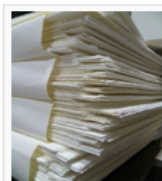
Coordinator



Latest News

MEDIADDEM report on project output and areas for future research

July 2nd, 2013



Credits: Creative Commons

This report seeks to evaluate the lessons learnt from MEDIADDEM's research and to assess the communication strategy employed for the diffusion of project findings to various stakeholders at the national and European levels. On the basis of the research conducted, the report also considers follow-up research directions in the field of media policy and regulation, and media freedom and independence.

[More »](#)

What's New in the Media?

- New funding regime for Public Service Broadcasting in Germany: Interstate Treaty envisages a household and company contribution by 1 January 2013
- High-level group to focus on media freedom and pluralism
- MEDIADDEM partners contribute to the work of a special drafting-law committee in Greece

Third MEDIADDEM policy brief

April 24th, 2013

The third MEDIADDEM policy brief is devoted to the role of the EU and the Council of Europe in supporting media freedom and independence. Drawing on the research that was carried out throughout the duration of the MEDIADDEM project, this policy brief provides a succinct overview of key areas of concern in relation to the development of policies that create an enabling environment for media freedom and independence, identifying key pressures on the operation of free and independent media. [More »](#)



[Publish Your Views](#)

Views & Commentary

- Working paper: Private regulation, freedom of expression and journalism: Towards a European approach?
- Public service media do not have to end 'online written press activities'
- The state government of Rhineland-Palatinate questions the independence of the German PSB

MEDIADDEM final European conference

February 26th, 2013



The Hellenic Foundation for European and Foreign Policy (ELIAMEP), the European Platform of Regulatory Authorities (EPRA) and the Association of European Journalists (AEJ) co-organised the final conference of the MEDIADDEM project on 'Media freedom and independence: Trends and challenges in Europe'. The conference took place on 7 February

European Parliament

Resolution of 21 May 2013 on the EU Charter: standard settings for media freedom across the EU

Media freedom: MEPs call for annual EU monitoring of national media laws

PLENARY SESSION Press release - Fundamental rights / Culture – 21-05-2013 - 13:13



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Changes in EU member states' media laws that make it easier for governments to interfere in the media should be monitored every year at EU level, says a resolution voted by Parliament on Tuesday. To safeguard media freedom and pluralism, the Audiovisual Media Services Directive should be revised and journalists' working conditions improved, it adds.

Media freedom and pluralism should be monitored in all member states, and the findings published in annual reports followed up by proposals for action,, says the resolution drafted by Renate Weber (ALDE,

RO). This should be done by the European Commission, the Fundamental Rights Agency and/or the European University Institute (EUI) Centre for Media Pluralism and Media Freedom, it adds.

Protecting journalists from threats

Parliament wants to safeguard journalists' independence from the internal pressures of publishers or owners and the external ones of political or economic lobbies. For editors and journalists, editorial charters or "codes of conduct" are crucial to independence, as they prevent owners, governments or others from interfering with news content, stresses the text.

MEPs urge the EU and its member states to support investigative journalism, as it monitors democracy and uncovers criminal offences. Ethical journalism should also be promoted in the EU, but media regulatory bodies should always be independent and created by the media sector itself, they say.

Revising the Audiovisual Media Services Directive

The scope of the Audiovisual Media Services Directive (AVMSD) should be extended to establish minimum standards for protecting the fundamental right to freedom of expression and information, media freedom and pluralism, says the text.

The revised AVMSD should include rules on the transparency of media ownership, media concentration and conflicts of interest. Rules are also needed to govern the provision of political information via all audiovisual media, so as to guarantee fair access to differing political players, opinions and viewpoints, "in particular on the occasion of elections and referendums", MEPs say.

Independence of public media chiefs

Public media chiefs, management boards, media councils and regulatory bodies should be selected on merit and experience, not political and partisan criteria, says Parliament, which calls on member states to establish guarantees to safeguard the independence of these bodies against political influence.

Precarious working conditions

Parliament asks the European Commission to study how the crisis and job precariousness affects the journalistic community, with a view to seeking to remedy their harmful impact on media freedom.

Download press release in PDF format.

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URL <http://www.europarl.europa.eu/n>

Further information

Links

Adopted text will be available here (click on 21.05.2013)

Rapporteur Renate Weber (ALDE, RO)

Legislative Observatory file



VLAAMSE REGULATOR
VOOR DE MEDIA

Media for all not the few

HANDS OFF THE MEDIA!

European Citizens' Initiative for Media Pluralism

<http://www.mediainitiative.eu/>



Stand up for free media today!

Force the European Commission to pass legislation ensuring free and pluralistic media across Europe.

Now you can make a difference.

The European Citizens' Initiative lets people set the agenda. Take action today and help build a media of, for and by the people.

9.617
Total Signatures

/ 1.000.000



What is an ECI?

An exciting new tool of participatory democracy! The ECI lets you set the agenda, presenting a law proposal directly at the European Commission for implementation across all the E.U.



What do we ask?

We ask a European law protecting media pluralism across all the continent guaranteeing the independence of the media from political and economical interests.



How do we get that?

By convincing one million citizens to sign the ECI! Take three minutes of your time and empower European citizens to check abuses of political power with a free and diverse media!

Help us reach 100%

SIGN NOW

RECENT DEVELOPMENTS AT COUNCIL OF EUROPE LEVEL



Resolution 1920 (2013)¹

Final version

The state of media freedom in Europe

...“regrets that media ownership is not made transparent in all member states and asks them to adopt the necessary provisions to this end.”

...“calls on member states to take proper action for ensuring media transparency and pluralism and promoting journalistic standards.”

Doc. 13121

30 January 2013

Increasing transparency of media ownership

Motion for a resolution

tabled by Ms Gülsün BİLGEHAN and other members of the Assembly

Advancing the Right

- European Union
- Open Government
- Media Transparency
- Lobbying Transparency
- Business Transparency
- National Campaigns
- Spain

Using the Right to Know

- Human Rights
- Journalism
- Anti-Corruption
- Participation
- Environmental Issues
- Aid Transparency
- Poland Monitoring

Thinking Info

- Blog: Thinking Info
- Standards and Principles
- Laws and Constitutions
- Litigation
- Toolkits
- Help Desk

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Public Consultation on Transparency of Media Ownership in Europe

Access Info and the Open Society Media Program would like your input on our draft recommendations for improving the transparency of media ownership in Europe - please fill in this questionnaire - it has 10 questions and takes 8 minutes: <https://www.surveymonkey.com/s/TransparencyMediaOwnership>

Recommendations:

Access Info and the OSMP has developed a set of recommendations which are open for public consultation and will be presented to the European Union, European Parliament, Council of Europe, and the Organization for Security and Cooperation in Europe, as well as national governments. The recommendations can be downloaded in full [here](#). They include:

- 1. Transparency on ownership of the media** - Disclosure to a national regulator and to the public of the essential basic information. For example: the name and contact details of the media outlet, size of shareholdings over 5% etc.
- 2. Information is findable and free** - Clear signposts and easy accessibility on a website or central government portal.
- 3. Regularly updated information** - Changes to data which is required to be made public should be disclosed to a media authority and on the organisation's website within 10 working days of commencement of broadcasting / publishing.
- 4. Open formats and free for reuse** - Must ensure that the entire media ownership database is available with no charges which limit reuse and with no restrictions on reuse
- 5. Progressive expansion** - Should progress towards greater transparency through mandatory disclosure of more detailed information about owners with over 5% shareholding in the media company, for example positions held by any owner in a political party or in a religious organisation.
- 6. Transparency of influence** - Disclosure of information about who controls the media (aside from the owner) and therefore has great influence. For example: sources of revenue, key executive officers.
- 7. Clear and precise legal framework** - The provisions regarding disclosure of media ownership should not be unduly burdensome for a media outlet and the content of the reporting requirements set out in the different laws should be clear and consistent.
- 8. Oversight by independent body** - A body such as a media regulator which already oversees registration of broadcast media should be mandated to monitor and ensure compliance with laws.
- 9. Direct to the public** - Media should be required to disclose directly to the public the same information as that submitted to the media authority.
- 10. Transnational access** - Data collected at the national level for all three media sectors (broadcast, print and comparable online) should be made available to other government regulators and the public via a shared system.

Background research country-by-country

Austria

Azerbaijan

Bulgaria

Croatia

Cyprus

Access Info works to advance and defend the right to know in Europe and globally. We are against excessive secrecy and believe that access to information is key to protecting human rights.

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Upcoming Events

27-30

September:

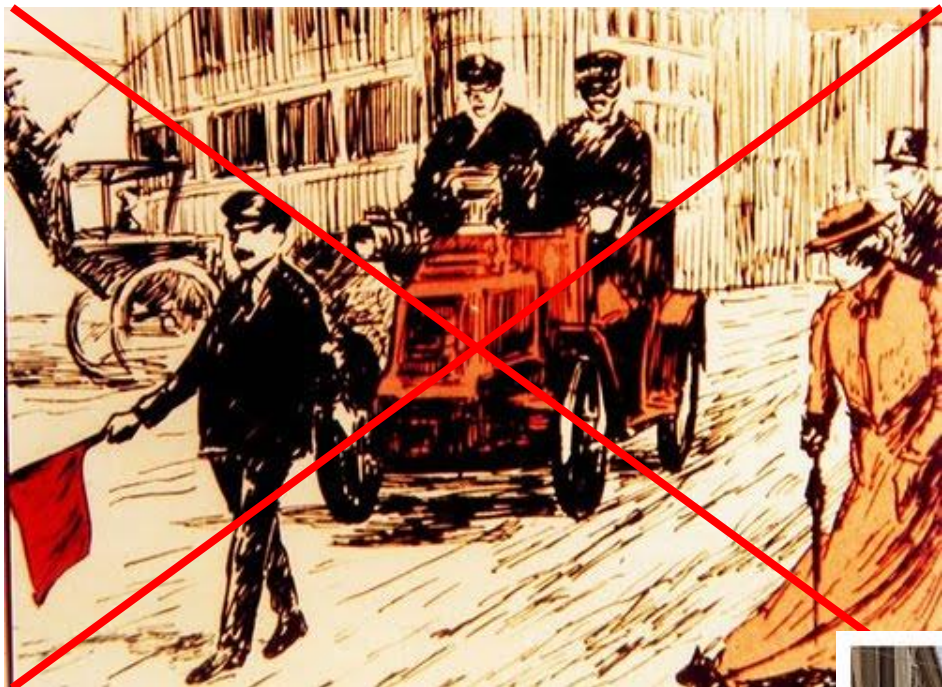
Access Info will participate in the series of

Freedom Not Fear events in Brussels

30 September: Helen Darbishire is giving a speech at event "*Gong Croatia*"

More events





Thank you for your attention!

Peggy Valcke

Vlaamse Regulator voor de Media / KU Leuven

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<http://www.vlaamseregulatormedia.be>

<http://www.icri.be> – <http://www.iminds.be>



<http://www.law.kuleuven.be/icri/masterict/>

Further reading

- Collins, D. A. & Cave, M. (2013). Media pluralism and the overlapping instruments needed to achieve it. *Telecommunications Policy*, 37(4-5), 311-320, doi: [10.1016/j.telpol.2012.09.002](https://doi.org/10.1016/j.telpol.2012.09.002)
- Craufurd Smith, R. (2004), “Rethinking European Union Competence in the Field of Media Ownership”, *European Law Review*, 29(5), 652-672
- Helberger, N. (2011). “Diversity Label: Exploring the Potential and Limits of a Transparency Approach to Media Diversity”, *Journal of Information Policy* 1(2011):337-369
- Komorek, E. (2009), “The European Court of Human Rights, the Council of Europe and the issue of media pluralism”, *E.H.R.L.R.* 3: 395-414
- OFCOM, [Measuring media plurality](#) - Advice to the Secretary of State for Culture, Olympics, Media and Sport, June 2012 (Annex 7: Summary of contextual academic literature)
- Stolte, Y. & Craufurd Smith, R. (2010), “The European Union and media ownership transparency: the scope for regulatory intervention”, OSI
- Valcke, P. (2009). “From Ownership Regulation to Legal Indicators of Media Pluralism: Background, Typologies, and Methods”. *Journal of Media Business Studies*, 6(3):19-42
- Valcke, P., Picard, R., Sükösd, M., Klimkiewicz, B., Petkovic, B., dal Zotto, C., Kerremans, R. (2010). “The European Media Pluralism Monitor: Bridging Law, Economics and Media Studies as a First Step towards Risk-Based Regulation in Media Markets”, *The [Journal of Media Law](#)*, Vol. 2, N° 1, 85-113
- Valcke, P. (2011). “A European Risk Barometer for Media Pluralism: Why assess damage, when you can map risk?”, *Journal of Information Policy* 1 (2011): 185-216