



**PAN-EUROPEAN FORUM ON
MEDIA PLURALISM & NEW MEDIA**
*FORUM PAN-EUROPEEN SUR LE PLURALISME DES
MEDIAS ET LES NOUVEAUX MEDIAS*

European Parliament, Brussels – Parlement européen Bruxelles
Hemicycle Debating Chamber, 27 June 2012

Summary Report: Key Observations and Recommendations



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January 2013

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1. Executive Summary

“This is about democracy, freedom and Europe”

(Neelie Kroes, Vice President of the European Commission, in her [speech](#) to the Forum)

The opening speech to the Pan-European Forum on Media Pluralism and New Media (the ‘Forum’) underlined how Europe has acted as a crucible in which ideas on media freedom and pluralism have been forged and tested over time. Milton’s faith in the capacity of ‘truth’ to triumph in competition with what is ‘false’ has, for instance, been influential on the US commitment to a ‘marketplace of ideas’, while the European Convention on Human Rights and Fundamental Freedoms (ECHR), agreed in 1950 after the moral and physical deprivations of the Second World War, set out, in article 10, explicit guarantees of freedom of expression and the right to receive information even across borders. But if Europe is to remain a credible and reputable model for those seeking to free themselves from censorship or repression in other countries, it is essential that these fundamental principles and guarantees are updated in the context of our rapidly changing media environment, one where technological developments have not only opened up new communicative opportunities, but also pose new threats to freedom of expression and media plurality.

The Forum was set up to investigate how well citizens, civil society organisations, industry, regulators, states and international organisations have been responding to these opportunities and challenges and what more can be done to protect and promote media pluralism in today’s evolving media landscape. Drawing together experts from across the field, the Forum focused on four key issues: what are the key threats to media pluralism in Europe today; are technological and economic developments creating new opportunities to enhance media pluralism and, if so, how can this be further supported; how should media pluralism be defined and measured, with specific reference to innovative industry and national initiatives; and what role can, and should, the EU and other international organisations play in supplementing action at the domestic level?

The present report has been drafted by the coordinators and rapporteurs of the Forum (listed as “authors”) on the basis of the discussions held at the Forum. A draft version has been discussed with representatives of the European Commission, the High-Level Group on Media Freedom and Pluralism, and the European Citizens’ Initiative for Media Pluralism at a workshop organized by the Centre for Media Pluralism and Media Freedom at the European University Institute in September 2012. The report has been finalised early January 2013.

The objective of the report is not to give a detailed account of the presentations (some of which are available in full text on the [Forum's website](#)), but to provide a snapshot of the richness of the debates that took place that day and to formulate key observations and recommendations. Although it endeavours to take account of the interventions of all speakers, attributions to individual speakers have been avoided.

The following key observations and recommendations have been identified:

- Media pluralism is closely linked to freedom of expression and state signatories to the European Convention on Human Rights ('ECHR') are under not only a negative obligation not to repress speech or access to information but also a *positive* duty to ensure that it is adequately guaranteed.
- Media pluralism is adequately realised and protected in some but not all ECHR states. Threats to media pluralism stem from state intervention, undue private power, changing business models and, paradoxically, enhanced consumer choice.
- Technological and economic developments have also created new opportunities to enhance media plurality, enabling, for example more interactive relationships to be forged between creators and their audiences.
- Media pluralism requires a re-assessment of established hierarchies, relationships and rights in order to facilitate new ways of stimulating creativity and exploiting creative capital.
- Media pluralism also requires co-ordinated action at state, national and international levels and the active participation of citizens in shaping policies that will adequately protect their rights. The EU and Council of Europe can play a valuable role in helping to set standards, coordinate research, and the exchange of information and best practice among all stakeholders.
- In order to implement these recommendations, the EU should open a dialogue with member states to clarify its competences, and agree common definitions and standards in relation to media pluralism. Although Member States are best placed to develop policies that will support media pluralism in their own country, the EU could play a more central role in ensuring that a threshold level of pluralism is maintained in all states and monitoring conformity with basic standards more generally. There is also scope for the EU to build on existing measures relating to media ownership transparency, independence of media regulators from states and industry, the right of reply, and media literacy. Further consideration could be given to using existing funding programmes in the field.
- The EU and Council of Europe should co-operate in ensuring that media pluralism is fully realised in all their member states.

2. Four Key Themes

A. What are the threats to media pluralism in the new global, connected media environment?

The media sector is currently undergoing a radical transformation, creating new opportunities for industry, civil society organisations and citizens to engage with a world-wide audience, virtually instantaneously and at comparatively low cost. But this transformation has also led to the fragmentation of the public sphere; the rise of powerful new intermediaries and gatekeepers; uncertainty as to the viability of existing business models; and an increasingly profound divide between those able to engage with, and those excluded from, this new communicative space. Threats to media pluralism consequently remain even in this new environment.

At the Forum, participants focused on five distinct threats to media pluralism:

- undue state influence,
- excessive private power,
- reduced investment in original content, particularly investigative journalism,
- attacks on and intimidation of journalists,
- limited exposure on the part of citizens to diverse information and opinions as a result of their own consumer choices.
- a lack of media ownership transparency – consumer awareness of private and public interests behind media

In relation to undue **state influence**, participants expressed concern over the situation in countries such as Russia, Hungary, Turkey, Serbia and in the Balkans in general. In Russia, it was noted that the media, particularly the electronic media, are largely controlled by the government or state affiliated companies. State advertising is distributed along political lines. In Turkey, the state has blocked websites, while in Hungary, questions remain over the political independence of the powerful Hungarian media regulator. In Serbia the media are still in various ways largely controlled by the state and citizens do not know who owns the media outlets. The far-reaching political implications of state control of the media were underlined by a Russian journalist who noted that ‘a threat to our journalism is a threat to peaceful development in Europe’. Failure to address such threats not only undermines the democratic process in the countries concerned but may also encourage other states to follow

suit, creating a 'domino effect'. **Given the difficulties inherent in addressing state influence domestically, the only way of resolving these problems may be through concerted action at the international level.**

The new media provide a powerful platform through which human rights violation can be reported. As underlined in the 2012 report on the protection of journalists and media freedom of the UN Special Rapporteur on Freedom of Expression ([A/HRC/20/17](#)), and emphasised during the Forum by the director of an international NGO, journalists' lives need to be protected. If the legal system does not grant protection, the risk of self-censorship is very high.

The case of the UK was raised to illustrate how excessive **private power** can also threaten media pluralism. The media power of News International may well have influenced the political elite to endorse further market consolidation and encouraged a climate in which certain journalists felt that they could break the law with impunity. As a UK campaigner observed, the EU has expressed concerns over Hungary, where the state is claimed to unduly control the media; but not over the UK, where the media appear to have been controlling the state. However it is important to note that illegal activity is now under investigation and may not have been confined to one company.

There are also **new configurations of media power**, with internet service providers, social network sites, search engines and other intermediaries developing a capacity to influence what information is made available to and selected by citizens. The ability of third parties to access these networks on a fair and non-discriminatory basis and to receive payment for the use of their content remain key issues for media plurality and the viability of a professional, independent press.

Although the new media environment appears to offer a cornucopia of diverse content, citizens, policy makers and politicians need to understand how the online environment can qualitatively restrict, as well as enhance, choice. A BBC executive observed that for every 100 news sites there may only be one or two original news gatherers. In particular, free online content has **destabilised established media markets and business models**, resulting in a shift in economic resources away from the printed press. To remain viable, many newspapers have cut their editorial staff, foreign correspondents and domestic journalists. One MEP noted: 'information is not free' and without journalists there is no content. Citizen journalism undoubtedly enhances the mix of information available but is not a substitute for professional journalism.

However, citizen journalism is becoming a very valuable source of news information from inside countries where the foreign press cannot report and local press is state owned. Programmes are currently being established to help train citizen journalists in conflict zones.

The greater range of services and sites on offer also creates a risk that **individuals themselves close down their exposure to diverse content**, filtering out all services that challenge their beliefs or opinions.

Key findings

1. Media pluralism is threatened both by repressive state practices and by the accumulation of excessive media power by private organisations. It is also undermined by the failure of established business models and the selective narrowing by individuals themselves of their exposure to information and ideas.
2. Where the threats posed by state action or inaction are not adequately addressed at the domestic level, action at the European or international level is required to protect fundamental rights and prevent the spread of similar problems to other countries.
3. Access to the internet is increasingly central to political, social and cultural engagement and should be recognised as akin to, if not itself, a fundamental human right. Fundamental rights are applicable online as they are offline and the duties of those providing services on the internet need to be clearly defined.

Recommendations

4. National and international actors should (continue to) take action to ensure that media regulatory bodies act independently of the state or private interests and that state benefits (such as advertising contracts) are awarded on a non-discriminatory and open basis.
5. In light of convergence, urgent consideration should be given by policy makers at the national and international levels to how established media sectors, such as the printed press, can be helped to develop viable business models for the future and how the creation of original news and current affairs content can be stimulated more generally.
6. National and international policy makers and regulatory bodies should (continue to) investigate the role that new information intermediaries such as internet service

providers, social network sites, electronic programme guides, and search engines play in controlling access to information, with a view to ensuring that such intermediaries do not themselves suppress information and ideas or favour their own products or services to the exclusion of those of their competitors, and to establish whether further action is needed to protect media pluralism.

7. Industry, civil society organisations, national and international actors should continue to take steps to support responsible online journalism, with consideration given to the possible extension of a right of reply and use of ombudsmen or readers' editors in the online context.
8. Industry, civil society organisations, national and international actors should consider what further steps can be taken to enhance media literacy and media transparency. In particular, individuals should be able to identify and evaluate on what basis content has been selected for transmission to them; the sources behind the content they access; and any possible conflict of interest relating to the journalist or provider of the information. Individuals should be encouraged to engage critically with the media, drawing on a variety of sources and engaging in debate online.
9. Adequately resourced public service media continue to play a central role in offering citizens access to original, reliable and independent coverage of news and current affairs both off- , and increasingly, on-line. They can also play a valuable role in enhancing media literacy and encouraging exposure to a range of different sources in line with 8 above. However, care should be taken to ensure publicly funded media do not take undue advantage of their privileged position and distort competition with privately funded media particularly given current economic pressures on certain media sectors.

B. How might the convergent media environment enhance media pluralism?

Many contributors to the Forum emphasized that the new media environment also creates significant opportunities to enhance media pluralism, both in terms of content production and distribution. In particular, technological developments have:

- Enhanced our capacity to relay, store and access information on a global level.
- Enhanced the speed of production and transmission.
- Enhanced the ability to combine video, audio and text services and to relay different services over a single network.
- Empowered individuals to tailor their exposure to the media in line with their specific needs, both substantively and in terms of when and where that content is received.
- Empowered creative individuals, both professional and amateur, to publish and receive information worldwide.
- Enabled alternative voices to reach the public.

The evolving nature of all media distribution thus needs to be recognised, alongside a willingness to reassess established hierarchies, relationships and rights in order to facilitate new ways of stimulating creativity and exploiting creative capital. A number of artists, writers and performers underlined the point that copyright, though important, is only one tool that can be used to realise revenues and that artists, particularly young artists, can also benefit from offering free online content in order to launch or develop their careers.

Although piracy was recognised as an ongoing problem, there was disagreement among participants as to the emphasis that should be placed on copyright enforcement as a solution. Further efforts to enhance access to legal content was identified as an alternative response and leading content creators called for a greater emphasis on encouraging ethical behaviour on the part of consumers and businesses which benefit from creative content without investing in its production. A priority that was identified in the music sector was the development of mutually supportive relationships between artists and fans.

Similarly, participants noted the risk of property rights being used to block rather than advance innovation and competition in the market, with consumers being locked into using services linked to a particular device, platform or programme. Concerns were, for example, expressed in relation to the market for ebooks where typically the market in Europe is segmented country by country by online retailers preventing consumers from purchasing in whichever country they choose. Furthermore, proprietary standards and formats imposed by the retailers frustrated

consumers who wanted to move their books from one platform to devices of their choice. Although the future growth in this area will involve from strong protection for authors and their publishers through copyright and innovations in licensing, it was important to ensure the encouragement of a plurality of routes to market covering all facets of the internet, as well as more competition among ebook retailers to offer maximum consumer choice and services.

Though there remain considerable threats to media pluralism and ongoing uncertainty as to how best to ensure pluralism in practice, participants at the Forum outlined a number of innovative strategies on the part of industry, regulators and governments that have helped to preserve plurality and diversity in the market. In relation to industry initiatives, the example of trusts, which have provided financial support to the Irish Times and the Guardian, were mentioned. In particular, the impact of the trust structure on international coverage by the Irish Times was noted. One newspaper representative emphasised the importance of long term planning in newspapers, to avoid an exclusive focus on short term revenues.

Key findings and recommendations

1. Policy makers at national and international levels should engage meaningfully with all actors in the field, including artists, writers and performers, in order to facilitate the development of new business models. Particular attention should be paid to the interests of new or up-and-coming artists who add to the pool of content and diversity.
2. Policy makers at the national and international levels should give further consideration to whether those who create content, such as artists, performers, and scriptwriters, should be given greater control over this content in order to encourage further exploitation. A lack of clarity regarding the copyright and broader legal status of content is hindering innovation and creativity.
3. Tax breaks and other forms of subsidies that currently apply offline, for instance for printed books or newspapers, should be applied on a platform-neutral basis.
4. Industry, national and international actors should consider how methods other than copyright enforcement can be employed to address the problem of piracy and encourage responsible consumer and business behaviour.
5. Industry and competition authorities should ensure that intellectual property rights are not exercised so as to exclude competitors from the market or tie consumers in to the use of particular devices or services. Further attention should be given to the need for regulation to promote interoperability.

C. How can media pluralism be defined and monitored and how are different national actors responding to the challenge of realising media pluralism in practice?

In order to protect and promote media pluralism we need clearer definitions. Although speakers at the Forum emphasised that there was a need for greater clarity, the extensive work already completed by the Council of Europe in analysing the demands of media pluralism in specific contexts, can be built upon to guide future initiatives, at both domestic and international levels. In particular, recent rulings of the European Court of Human Rights, notably the case of [Centro Europa 7 S.R.L.](#) (app. n.o. 38433/09), confirm that article 10 ECHR imposes a *positive* duty on states to guarantee a plural media environment as well as a *negative* duty not to repress speech. States are thus required to take action against **private configurations** of power that could threaten media pluralism. Article 11 of the Charter of Fundamental Rights of the EU similarly recognises the central importance of freedom of expression alongside media pluralism in modern democracies

Given its basis in the fundamental human right of freedom of expression, media pluralism has two complementary dimensions: a **right for individuals and groups in society to express themselves in diverse ways** and a **right to receive pluralistic information**. These in turn necessitate access to the means of distribution, affording an opportunity to have one's message viewed and consumed, as well as choice in relation to the content one consumes. In particular, the media must reflect all voices in society, including those of minorities and the disadvantaged. Media pluralism is, however, only one media policy goal and we need to bear in mind other important general interest objectives, such as the well-being of children or the protection of personal data that may sometimes be in conflict with greater openness and diversity.

Various factors were identified as important pre-requisites for media pluralism to be realised in practice:

- A working democratic system.
- Controls in relation to market structure with effective media concentration rules. Competition law was seen as an important tool in this regard but not sufficient on its own, with the recent BSkyB/News Corp merger case in the UK given as an example: the merger was approved by the European Commission on competition grounds but

raised significant concerns at the domestic level regarding its impact on media plurality.

- Monitoring of equality of access to networks and implications of traffic management for media pluralism.
- An incentive based system that encourages the reinvestment of revenues in content generation.

A notable example of state practice was provided by the Flemish media minister. Flanders, through its media regulator, [monitors](#) concentration in the written and broadcast media and retains a detailed database on media ownership. In addition, the '[news monitor](#)' (previously the electronic news archive '[ENA](#)') publishes scientific research prepared by a consortium of universities, relating to news coverage in the media, with reports both on content, for instance the coverage of foreign news, and audiences. Flanders also supports investigative journalism with a dedicated fund, promotes access to newspapers in classrooms, and invests in high quality audiovisual productions. It was also outlined how the Netherlands was placing increasing emphasis on monitoring and understanding the nature of media concentration rather than simply relying on fixed limits.

Key recommendations

1. Further research on when media ownership concentration becomes problematic is required. On the one hand, concentration may not always be detrimental to content diversity, with one or two providers each offering a wide range of services. On the other, there may be multiple providers all offering the same content. Qualitative as well as quantitative assessments thus need to be taken into account. We also need to have a better understanding of how to assess media influence. In addition citizens need to be able to determine sources of content to identify authoritative and trusted sources of news and analysis.
2. Attention needs to be given to the whole value chain, in that actors at different points in the chain (distributors, content creators and rights owners, channel providers, editors, search engines and other intermediaries, consumers etc.) may all be able to control or influence the flow of information in the market.
3. Industry is developing a number of new business models, relying on cross-subsidies, charitable donations and trusts to support quality journalism. National and (where relevant) international policy makers should put in place measures to assist such

ventures, for example, through ensuring charitable status, tax relief or the provision of other subsidies or advantages.

4. States are also experimenting with a variety of techniques to identify, monitor and address problematic forms of media concentration. Further structured co-ordination should take place to ensure that the experience gained from these initiatives is widely disseminated, enabling other states to draw on and develop best practice.
5. National actors – governments, regulators, civil society organisations - remain central actors in addressing concerns over media pluralism at the domestic level. Political, technical, economic, social and cultural conditions vary significantly from one country to another and domestic bodies are best placed to determine how pluralism can be realised in practice in the home environment.

D. What role can, and should, the EU and other international organisations take in protecting media pluralism?

Governments have an obligation in international law to protect media pluralism, but what role can and should *international organisations* play in this context? Although participants at the Forum noted adequate levels of media pluralism in countries such as Germany, Belgium and the Netherlands; the Russian, Turkish, Hungarian and Serbian examples discussed above indicate that states may sometimes be the problem rather than the solution, rendering internal resolution extremely unlikely. **In this context, action at the international level may be the only way to bring about change and prevent further problems.**

It is thus vital that international organisations such as the EU clarify both what they understand by the term ‘media pluralism’ and their respective obligations or powers in the field. International organisations can support the realisation of media pluralism in various ways. They may, for example, be competent to:

- Set out specific requirements or benchmarks for action relating to media pluralism.
- Provide concrete incentives, such as financial support, for initiatives that enhance media pluralism and insist on media literacy.
- Engage in theoretical and comparative research in order to clarify key concepts, suggest common definitions or provide guidance on specific issues.
- Monitor the actions of private individuals, industry, regulatory bodies and states in order to identify and publicise when fundamental rights and legal obligations have been breached.
- Help to co-ordinate the activities of civil society organisations, regulatory bodies and states in complying with international standards, exchanging information and examples of good practice.
- Ensure that in all their other activities their actions do not curtail or otherwise undermine media plurality and freedom of expression (a mainstreaming obligation).

The importance of clarification regarding the role of the EU was underlined by the different views aired during the Forum. Certain contributors criticised the European Commission for failing to take sufficiently robust measures, and a belief that the EU could do more in this field lies behind the [European Citizens’ Initiative for Media Pluralism](#). Other contributors

emphasised the importance of a more cautious approach, particularly were the EU to consider establishing specific ownership requirements, given the limited experience of the EU in this field and the very diverse circumstances in the Member States.

A number of specific areas were, however, mentioned such as media ownership transparency; independence of regulatory bodies; the right of reply; and media literacy, where the EU has already introduced measures that could be built on with less controversy. Similarly, the EU could draw on its experience in funding initiatives such as the various Media and Culture programmes to support investment in innovative content or new business models that will enhance plurality.

In addition, there was broad support for further EU engagement in the field of research on media pluralism; in helping to co-ordinate actors at the international level, possibly drawing on previous experience in relation to the Open Method of Coordination, and in mainstreaming media pluralism across all EU activities, which could extend to fields such as competition law, state aid regulation and the application of internal market rules. Possible negative effects on media pluralism identified as resulting from existing measures, such as the [Audiovisual Media Services Directive](#), should also be investigated. An enhanced monitoring role, possibly in co-ordination with the [EU's Agency for Fundamental Human Rights](#), can also be envisaged.

A final concern voiced at the Forum related to co-ordination among the various international organisations themselves. In light of the inability of the Council of Europe to co-ordinate a protocol updating the Convention on Transfrontier Television, given last minute objections by the EU, the capacity of the Council of Europe to protect media pluralism in the audiovisual sector beyond the confines of the EU has been brought into question. Further steps should be taken to ensure that the two bodies co-operate to ensure that human rights are offered the broadest protection both within the EU and across signatory countries to the Council of Europe.

Key recommendations

1. The EU should clarify its competences in the field of media pluralism and what it understands media pluralism to entail in practice.
2. Depending on conclusions reached regarding the competence of the EU in the field further consideration should be given to setting benchmark standards designed to

guarantee a basic level of media pluralism and media transparency. In so doing, it should build further on the standards put forward by the Council of Europe and by the European Court of Human Rights on the basis of Article 10 of the European Convention on Human Rights, in order to avoid any discrepancies between the interpretation of that article and of Article 11 of the EU Charter of Fundamental Rights.

3. The EU should consider building on existing initiatives in order to ensure transparency of media ownership and an enhanced right of reply. It should also continue to support initiatives in the field of media literacy and consider how existing initiatives and funding programmes in the media field might be used to support the production of innovative and diverse content.
4. The EU should investigate whether it would complement or merely replicate existing studies by monitoring levels of media pluralism across the Member States, possibly drawing on the skills of the EU Fundamental Rights Agency.
5. The EU should mainstream its commitment to protecting media pluralism across all relevant fields of activity and review existing measures to ensure that they are not operating so as to curtail media pluralism in specific Member States.
6. The EU should continue to help to co-ordinate the activities of civil society organisations, regulators and policy makers across Europe in order to facilitate the exchange of information and best practices relating to the protection and promotion of media pluralism.
7. The EU and Council of Europe should co-operate (rather than compete) to ensure that media pluralism is realised in all their respective member states.

Acknowledgements

The Forum was realized with the help of many organisations and individuals all over Europe. The organisers would like to express their gratitude to the speakers, discussants and moderators at the Forum; the political groups and MEPs lending their support to the event and our application for use of the Hemicycle; the sponsors; the members of the Advisory Committee and group of rapporteurs; and all others who provided financial, logistic, organisational, technical or moral support.

Relive “NMF 27 – the event”, or meet us again, at: <http://www.mediapluralism.eu/>

Siobhan Grey & Peggy Valcke (January 2013)

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