

The proposed European Media Freedom Act (EMFA)

*Articles for consideration in advance of the
plenary vote in the European Parliament.*

The European Parliament will vote on the EMFA in the week 2-5 October 2023.

Context

The EMFA proposal aims to protect media freedom and pluralism, focusing on the protection of media services and journalists in both online and offline contexts and also supporting the fundamental rights of their audiences. Independent and plural media systems are essential for a well-functioning democracy.



SPYWARE

(Article 4)

| What are we asking for?

- A complete ban on the use of spyware against journalists and their sources.

| Why?

- Spyware endangers journalism, freedom of expression (in all its dimensions, i.e. freedom to hold opinions and to receive and impart information and ideas) and ultimately the Union's democratic values.
- Spyware can access all communications, photos, contacts, and online behaviour data. Its use violates the fundamental right to privacy and freedom of expression and no legal safeguard can prevent abuses by Member States or private entities.
- Once spyware infects a device, there's no way to prevent data retrieval, rendering technical and legal safeguards ineffective.
- Spyware can under no circumstance be considered necessary or proportionate under EU law.

| Our position before the plenary:

The plenary of the European Parliament can stop the use of spyware against journalists by deleting paragraph 2 c (new) (allowing the use of spyware as a last resort) and deleting the reference to spyware (point (ca)) in paragraph 2d (new).

PUBLIC SERVICE MEDIA (PSM)

(Article 5)

What are we asking for?

- The EMFA must contain robust safeguards that effectively strengthen PSM independence and autonomy from the state, including through adequate, stable and predictable funding which is provided on a multi-annual basis.

Why?

- The role of PSM is essential to fulfill citizens' right to access information, formation of political opinions, and participation in the public discourse.
- PSM promotes media freedom.
- PSM contributes to healthy and pluralistic media markets.

Our position before the plenary:

We ask you to support the CULT Report adopted on 7 September 2023.



TRANSPARENCY OF MEDIA OWNERSHIP

(Article 6.1 6.3)

What are we asking for?

- Strengthen the requirements for transparency of media ownership and create a user-friendly, accessible online media ownership database at national and EU level. The requirement to ownership transparency must apply to all media service providers and online platforms, regardless of their size.

Why?

- Transparency of media ownership strengthens the accountability of media service providers.
- It is vital to inform the public about potential political interference and conflicts of interest.
- It allows regulators to prevent media ownership concentration, which could have undue influence on democratic discussions.

Our position before the plenary:

We ask you to support the CULT Report adopted on 7 September 2023 including the deletion of Article 6.3.

INDEPENDENCE OF THE MEDIA

(Article 6.2)

What are we asking for?

- To safeguard both journalistic and editorial independence in the EMFA.

Why?

- Journalistic and editorial independence is a fundamental right, which is increasingly being violated.
- Increased self-censorship has been proven to damage the quality and trust of media content.
- Enforcement independent bodies or media councils should ensure that the interests of the owners, shareholders and advertisers of media do not affect the principles of ethical journalism.

Our position before the plenary:

We welcome the provision in Article 6.2 and we suggest deleting the term “they deem appropriate” in order to achieve a higher level of protection of the independence of journalists.



MEDIA PLURALISM TEST

(Article 21)

What are we asking for?

- Strengthen requirements for the media pluralism test, provide further guidance for assessing the impact of the media merger and how to prioritize or solve conflicts related to the criteria for merger assessment.

Why?

- A media pluralism test for mergers fills a significant gap in a heavily fragmented environment across the EU. Such a test is vital to keep high concentration of media markets in check, and to protect plurality, independence and freedom of the media.
- In almost half of EU member states, this public interest element is not considered at all; in the other half, the criteria, processes and goals linked to the test are different.
- The above inconsistencies across the EU have contributed, we believe, to insufficient levels of diversity and plurality of media actors in many national markets and/or to the fact that media actors lose their independence because of mergers.

Our position before the plenary:

We welcome the media pluralism test in the EMFA, but changes need to be made if the test is to function effectively. In addition to the Board issuing guidelines (not the Commission) on the factors to be taken into account when applying the criteria for assessing the impact of concentrations, we would urge that national regulatory authorities {NRAs} (on their own initiative or requested by the Board) conduct an ex -post evaluation of concentrations affecting the media market that could have a significant impact on media pluralism and editorial independence to assess the consequences of the NRA's decision and whether the effects of the merger should be reduced or eliminated ex post.

STATE ADVERTISEMENT

(Article 24)

| What are we asking for?

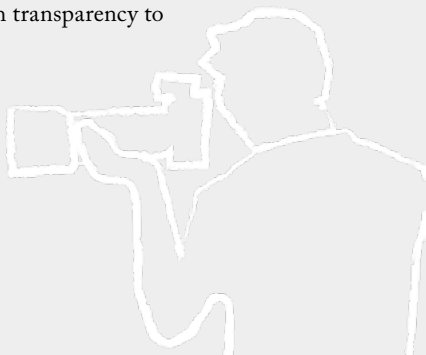
- Full, mandatory transparency about the distribution of state advertising funds. It should include regular reporting on the parties involved, the values exchanged, and establish both national databases, and an EU-wide database, for state advertising expenditures. The EP must ensure that no thresholds based on inhabitants are reintroduced for the Plenary.

| Why?

- State resources are often used in a covert way to fund government-friendly media.
- Transparency about state spending is crucial for democratic societies and the rule of law.
- Transparency about the allocation of state resources is essential for assessing relationships between the government and media service providers.

| Our position before the plenary:

The Plenary of the European Parliament can establish transparency to support media pluralism and the rule of law.



This brochure gathers the positions of the organizations below. The different sections have been prepared by the undersigned organizations in accordance with their advocacy priorities. However, some organizations do not have a stance on all the provisions presented here, such as the European Broadcasting Union on Articles 6, 21 and 22.

Access Info Europe

Access Now

ARTICLE 19

Association of European Journalists
(AEJ Belgium)

AMARC Europe - Association Mondiale des
Radiodiffuseurs Communautaires - Europe

Civil Liberties Union for Europe (Liberties)

Committee to Protect Journalists

EDRI

European Broadcasting Union (EBU)

European Federation of Journalists (EFJ)

Global Forum for Media Development (GFMD)

Media Diversity Institute

Society of Journalists, Warsaw

South East Europe Media Organisation
(SEEMO)

