

# European Media Freedom Act

2022/0277(COD) - 13/03/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 464 votes to 92, with 65 abstentions, a legislative resolution on the 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.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Rights and duties recipients and of media service providers

Member States should:

- respect the right of recipients of media services to have access to a plurality of editorially independent media content and ensure that framework conditions are in place in line with this Regulation to safeguard that right, to the benefit of free and democratic discourse;
- respect the effective editorial freedom and independence of media service providers in the exercise of their professional activities. Member States, including their national regulatory authorities and bodies, should not interfere in or try to influence the editorial policies and editorial decisions of media service providers.

It should be prohibited to:

- oblige media service providers or their editorial staff to disclose information related to or capable of identifying journalistic sources or confidential communications or oblige any persons who, because of their regular or professional relationship with a media service provider or its editorial staff, might have such information to disclose it;
- detain, sanction, intercept or inspect media service providers or their editorial staff or subject them or their corporate or private premises to surveillance or search and seizure for the purpose of obtaining information related to or capable of identifying journalistic sources or confidential communications or deploy intrusive surveillance software on any material or digital devices.

The use of spyware will be possible only on a case-by-case basis and subject to authorisation by a judicial authority investigating serious crimes punishable by a custodial sentence. Even in these cases, subjects will have the right to be informed after the surveillance has occurred and will be able to challenge it in court.

Safeguards for the independent functioning of public service media providers

Member States should ensure that public service media providers are editorially and functionally independent and that the procedures for the appointment and the dismissal of the head of management or the members of the management board of public service media providers aim to guarantee the independence of public service media providers.

The head of management or the members of the management board of public service media providers should be appointed on the basis of transparent, open, effective and non-discriminatory procedures criteria laid down in advance at national level. The duration of their term of office should be sufficient for the effective independence of public service media providers.

Funding procedures for public service media providers should be based on transparent and objective criteria laid down in advance.

Duties of media service providers

Media service providers should make easily and directly accessible to the recipients of their services up-to-date information on:

- the name or names of their direct or indirect owner or owners with shareholdings enabling them to exercise influence on the operation and strategic decision making, including direct or indirect ownership by a state or by a public authority or entity;
- the total annual amount of public funds for state advertising allocated to them and the total annual amount of advertising revenues received from third-country public authorities or entities.

Member States should entrust national regulatory authorities or bodies or other competent authorities or bodies with the development of national media ownership databases containing this information.

Content of media service providers on very large online platforms

Providers of very large online platforms should provide a functionality allowing recipients of their services to: (i) declare that they are media service providers; (ii) declare that they are editorially independent from Member States, political parties, third countries and entities controlled or financed by third countries; (iii) declare that they are subject to regulatory requirements for the exercise of editorial responsibility in one or more Member States and to oversight by a competent national regulatory authority or body or that they adhere to a coregulatory or self-regulatory mechanism governing editorial standards that is widely recognised by and accepted in the relevant media sector in one or more Member States; (iv) declare that they do not provide content generated by artificial intelligence systems without subjecting it to human review or editorial control; (v) provide an email address.

Members made sure to include a mechanism to prevent very big online platforms, such as Facebook, X (formerly Twitter) or Instagram, from arbitrarily restricting or deleting independent media content. Platforms will first have to distinguish independent media from non-independent sources. Media would be notified when the platform intends to delete or restrict their content and have 24 hours to respond. Only after the reply (or in the absence of it) may the platform delete or restrict the content if it still does not comply with its conditions.

Media will have the option to bring the case to an out-of-court dispute settlement body and request an opinion from the European Board for Media Services (a new EU board of national regulators to be set up by the EMFA).

## Allocation of public funds for state advertising and supply or service contracts

Public funds or any other consideration or advantage made available, directly or indirectly, by public authorities or entities to media service providers or providers of online platforms for state advertising or supply or service contracts concluded with media service providers or providers of online platforms should be awarded in accordance with transparent, objective, proportionate and non-discriminatory criteria, made publicly available in advance by electronic and user-friendly means, and by means of open, proportionate and non-discriminatory procedures.

Member States should seek to ensure that the overall yearly public expenditure allocated for state advertising is distributed to a wide plurality of media service providers represented on the market, taking into account the national and local specificities of the media markets concerned.