Getting the European Media Freedom Act right

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The European Commission recently proposed the first-ever EU regulation to guarantee media independence and pluralism in Europe. But for several experts, the proposal can be significantly improved.

The EU’s media landscape has come under increasing pressure from politically-driven public funding, digitalisation eroding revenues and foreign interference attempts.

The situation is particularly sensitive in Europe’s South, where the media sector is less financially independent from the political sphere. In this context, the network of Southern European think tanks PromethEUs has taken an in-depth dive into how to make the regulation up to the task.
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Economic sustainability, lack of ‘teeth’ and underdevelopment of the geopolitical implications are the most significant points for improvement highlighted in a soon-to-be-published study on the European Media Freedom Act.

The study, seen in exclusive by EURACTIV, was conducted by PromethEUs, a network of think tanks formed by the Elcano Royal Institute in Spain, the Institute for Competitiveness in Italy, the Foundation for Economic and Industrial Research in Greece and the Institute of Public Policy in Portugal.

The paper points to particular media sector weaknesses in these four countries, following significant questions related to media integrity and political bias risking independence.

“A large majority of respondents indicated concerns about their effect on the functioning of democracy,” said Stefano da Empoli, one of the report’s authors and president of the Institute for Competitiveness, a think tank supported by Google and Meta.
Economic sustainability

The media industry was found to be a vital contributor to the economy of the four South European countries, accounting for around 2% of the GDP and total employment.

Still, for da Empoli, the independence of the media in these countries is challenged by the lower financial sustainability of news media outlets, aggravated by the fact that there is a lower propensity to pay for news media as the sector becomes increasingly digitalised.

The expert noted that the European Media Freedom Act does not fundamentally address the critical issue of financial sustainability of the media sector. Moreover, since the legislative proposal is based on ‘internal market’ provisions, it might be ill-equipped to address this at the national level.

“Without financial viability, it would be difficult to achieve the objective of media independence, pluralism and higher trust,” da Empoli said, adding that this aspect is of fundamental importance as most media are trying to adapt their business model to the online world.

At the same time, the paper stressed that the regulatory changes the regulation would bring along could have significant implications for the way news media operate as businesses and regretted that there is no careful examination of the macroeconomic effects it could produce.

Enforcement

“The European Commission was quite brave to come up with a regulation because so far this topic was a competence member states were jealous of, especially national media regulation in areas like public funding, media independence, ownership and concentration,” da Empoli said.

Indeed, previous EU legislative initiatives in the media field were either confined to the audio-visual sector, like the Audiovisual Media Service Directive, or were tailored interventions on specific aspects, like the Copyright Directive.

However, the expert regrets that the Commission’s attempt was not whole-hearted, as the text leaves substantial leeway to the member states, for instance, in determining the transparency requirements on media ownership.

“Enforcement is a clear, potentially weak area to be addressed,” da Empoli said, advocating for “a sufficient level of centralisation in the enforcement, involving the member states, but with a more centralised tool than it was envisaged in the proposal”.

At the same time, the expert warned that the decisive question would be if there will be support from the EU Council to go in this direction since the member states might be reluctant to give up their national competencies in this area.

Geopolitical dimension

Awareness that foreign influence in the media and digital sphere could threaten democratic societies has been growing at the EU level since the Arab Spring in 2011 when social media played a critical role in spreading the political turmoil.

Since then, increasing attention has been paid to securing media freedom and pluralism, though initiatives have remained ad-hoc and limited in scope. In 2016, the EU’s Global Strategy for Foreign and Security Policy brought the security and foreign policy aspect to the fore, a move that was bolstered and consolidated through the Strategic Compass and its focus on hybrid threats and foreign information manipulation.

“The Media Freedom Act has a geopolitical dimension, but that could be further strengthened,” da Empoli said.

In particular, the expert said media freedom should become a crucial consideration when cooperating with non-EU countries, to the point that financial assistance could be suspended if there are abusive restrictions on freedom of expression or violence against journalists.

Moreover, he argued that media issues should become an integral part of international partnerships in the digital sphere, starting with the United States, South Korea, Japan and India, where the EU should seek regulatory convergence.
The debate over the extent to which the proposed European Media Freedom Act will contribute to addressing the sector’s financial struggles remains, with experts calling for greater attention to its long-term implications.

Europe’s media sector has faced financial difficulties for a number of years, with many calls for action to address declining revenues and bolster the industry’s sustainability in the face of an increasingly digital world.

The recently proposed European Media Freedom Act, however, with its focus on transparency and ownership, has been criticised as doing little to address the economic issues that are contributing to declines in media freedom and pluralism.

Debate remains among stakeholders as to what the ultimate impact of the Media Freedom Act will be when it comes to actually address these issues.

The media industry remains an essential contributor to economies, according to a newly-published study by PromethEUs, a network of think tanks from countries across Southern Europe, affording larger implications to its potential decline.

At the report’s launch event in the European Parliament on Wednesday (30 November), Aggelos Tsakanikas, one of the report’s authors, warned that attention should also be paid to the longer-term impacts of regulatory changes such as those that the Media Freedom Act would introduce.
Given the presence of the media industry within the broader economy of many countries, he noted, and the disruption that new regulation could bring to how the sector operates, he said, it would be crucial to examine the potential macroeconomic effects of its introduction, to answer questions of long-term sustainability.

In an interview with EURACTIV earlier this week, another of the report’s authors, Stefano da Empoli, argued that the Media Freedom Act falls short when it comes to addressing the financial sustainability of the sector, adding that given that the proposal has an internal market basis, it might in fact be ill-equipped to tackle this issues at the national level.

However, the proposal includes some measures geared towards tackling issues linked to media financing.

Among its provisions are measures requiring public funds and advertising to be distributed fairly and transparently, free of political pressure or preference, which would boost financial sustainability and strengthen media independence.

As part of this, governments will also be required to ensure that assessment tools, such as audience measurement systems, the results of which are often necessary when it comes to the later allocation of funding and private advertising, operate objectively.

It should not be overlooked that efforts to boost financial sustainability and media independence are closely tied, noted Ilias Konteas, Executive Director of EMMA-ENPA, the European Magazine and Newspaper publishers associations, speaking at the same launch event this week.

“For media freedom to become a reality for the sector, the sector must be economically sustainable”, he said, adding that “economically stable media are less exposed to threats from those entities, those players, that the Commission wants to protect them from.”

**Moving forwards**

Also discussed at the event was the outlook for the regulation as the legislative process gets underway.

While a progress report on its status so far was presented by the Czech presidency of the European Council earlier this week, discussion of it has yet to be scheduled, said Filippa Arvas Olsson, senior advisor at the Swedish Ministry of Culture, ahead of Sweden’s takeover of the institution’s helm in January.

Among the areas listed as currently needing more attention, she said, were the legal basis of the Act and the Commission’s competence to regulate, which has caused significant debate, given that media is generally seen as a national competence.

Also presented as areas of focus were the act’s scope and definitions, its relationship to other key initiatives, such as the Audiovisual Media Services Directive, and the new European Board for Media Services, which will replace the existing regulator, the European Regulators Group for Audiovisual Media Services (ERGA).

Several points on the list remain particularly politically sensitive for member states due to their proximity to national security or criminal law, Arvas Olsson noted. These include, for example, particular definitions, such as what constitutes a “serious crime” and the provisions against spyware and the surveillance of journalists.