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Increasing transparency of media ownership

Report[1]
Committee on Culture, Science, Education and Media
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Summary

Media ownership transparency is necessary to enable members of the public to form an opinion on the value of the information, ideas and opinions disseminated by the media. However, media outlets are frequently owned and controlled in a non-transparent manner, either because of a lack of transparency obligations under domestic law in member States or through non-transparent legal constructions of indirect or hidden ownership, which is often linked to political affiliations or economic or religious interests of the true owner of a media outlet.

Member States should therefore ensure that the public have access to specific information about the ownership, management and editorial structures of media as well as their financing. Relevant information shall be submitted by the media outlets concerned to an independent national media authority.

1. Reference to committee: Doc. 13121, Reference 3940 of 22 April 2013.

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A. Draft resolution[2]

1. The Parliamentary Assembly, emphasising the fundamental importance of freedom of information through the media in a democracy, recalls that media ownership transparency is necessary to enable members of the public to form an opinion on the value of the information, ideas and opinions disseminated by the media.

2. In this respect, the jurisprudence of the European Court of Human Rights requires pluralism and hence transparency of media outlets and obliges the Parties to the European Convention on Human Rights (ETS No. 5) to take positive measures to this end.

3. The Assembly recalls Article 6.2 of the European Convention on Transfrontier Television (ETS No. 132), which requires from the Parties to this convention that information about the broadcaster shall be made available, upon request, by the competent authority of the transmitting Party, including the composition of the capital and the nature, purpose and mode of financing of the programme service the broadcaster intends to provide.

4. In addition, Recommendation (2007) 2 of the Committee of Ministers on media pluralism and diversity of media content requires that member States ensure that the public have access to specific information about the ownership, management and editorial structures of media as well as their financing.

5. However, the Assembly notes with concern that media outlets are frequently owned and controlled in a non-transparent manner, either because of a lack of transparency obligations under domestic law in member States or through non-transparent legal constructions of indirect or hidden ownership, which is often linked to political affiliations or economic or religious interests of the true owner of a media outlet.

6. Moreover, because of the increased economic pressure and competition through digital media, pluralism of media outlets is particularly challenged. Media outlets have been taken over by larger media companies or wealthy individuals, whose interests are less focused on independent journalism or profitability, but rather on the possibility to lead the opinion of a sector of the public at large. Through media concentration, such opinion-leadership may have become dominant in some regional or national markets.

7. While some member States have legislation which ensures transparency of media ownership along the above standards, such legislation is lacking in a large number of member States and the laws of a few member States permit hidden or indirect media ownership, thus attracting a delocalisation of media companies to their national territory.

8. The Assembly therefore recommends that parliaments of the member States review their legislation to ensure adequate transparency of the ownership of, and influence over, media outlets (print media, film, radio, television and Internet-based media), including the disclosure of hidden ownership. In accordance with Article 10 of the European Convention on Human Rights, such reporting obligations shall not be used in order to discriminate foreign ownership of media or to restrict the international dissemination of media products and services.

9. The information to be disclosed about media outlets shall include the following:

   9.1. their legal name, legal seat and contact details, as well as the profit or non-profit purpose or State ownership;

   9.2. the name of the persons holding editorial responsibility or the authors of the editorial content;

   9.3. the authors of third-party content, unless the protection of journalistic sources requires that it be kept secret or the right to freedom of expression of the author is likely to be threatened beyond the limits of Article 10 of the European Convention on Human Rights;

   9.4. the names and legal seat of their owners; where these are third companies or other legal entities, the latters' legal names and legal seats, as well as the size of shareholding, unless such ownership concerns an insignificant part of the media outlet;

   9.5. the existence of co-operation contracts with other companies or co-operation predominantly with a single advertising company.

2. Draft resolution adopted unanimously by the committee on 27 January 2015.

10. The above information and any relevant subsequent change in its respect shall be submitted by the media outlets concerned to an independent national media authority. The public shall have access at no cost to this information, presented in a meaningful way, in electronic format, through the media's websites and/or an online centralised database published by the national media authority. The national media authority (or other relevant public body) should be entitled to monitor the respect of the reporting obligations and failure to comply with them should be effectively ascertained and sanctioned.

11. In view of the complexity of media landscapes in Europe and the complexity of the ownership structures of many media outlets, member States should ensure compliance with transparency standards through their regulatory authorities or other competent authorities. Complaints against non-compliance with transparency standards should be possible before the competent authorities.

B. Draft recommendation[3]

1. The Parliamentary Assembly refers to its Resolution …. (2015) "Increasing transparency of media ownership" and draws the attention of member States to a growing lack of transparency of the ownership structures of media outlets disseminating their mass media in Europe. This tendency is alarming in view of the transparency and pluralism requirements for media under Article 10 of the European Convention on Human Rights (ETS No. 5) and other Council of Europe standards.

2. The Assembly therefore recommends that the Committee of Ministers:

2.1. review and further develop Council of Europe standards in this field, in particular its Recommendation No. R (94) 13 on measures to promote media transparency and Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content;

2.2. invite the European Audiovisual Observatory of the Council of Europe to consider extending its action in line with the technological convergence of digital media and report, for instance in the framework of its MAVISE database (database on TV and on-demand audiovisual services and companies in Europe), about media ownership;

2.3. co-operate with the European Platform of Regulatory Authorities (EPRA), in order to:

2.3.1. increase compliance with transparency standards in all member States;

2.3.2. co-ordinate common action by regulatory authorities, with a view to avoiding geographic lacunae in Europe;

2.3.3. provide targeted support to enhance the implementation of transparency standards at national level;

2.4. invite associations of media outlets, such as the European Newspaper Publishers Association (ENPA), the International Federation of the Periodical Press (FIPP), the World Association of Community Radio Broadcasters (AMARC Europe), the Association of Commercial Television in Europe, the European Broadcasting Union and the European Internet Service Providers Association (EuroISPA), to set-up, in a co-ordinated way, ethical standards on transparency of media ownership.

3. Draft recommendation adopted unanimously by the committee on 27 January 2015.

C. Explanatory memorandum by Ms Bilgehan, rapporteur

1. Introduction

1. Having tabled the motion for a resolution on increasing transparency of media ownership (Doc. 13121), I was appointed rapporteur by the Committee on Culture, Science, Education and Media on 25 April 2013. As a former journalist and writer, I am particularly attentive to media freedom, pluralism and transparency, which are cornerstones of a media environment which is necessary in, and conducive to, a democratic society.

2. Twenty years ago, the Committee of Ministers adopted its Recommendation (94) 13 on measures to promote media transparency. Important further work has followed, within the Council of Europe and the European Union as well as by non-governmental organisations (NGOs). Nevertheless, the situation in Europe today is still marked by national differences in transparency standards, and some countries even offer loopholes for disguised ownership structures. As media outlets are under increasing economic pressure due to the rapid increase of digital media, they may be susceptible to financial and political pressures on their editorial decisions. This requires the attention of and reaction by national parliaments in Europe.

2. Preparatory work

3. In the framework of the preparation of its report on the state of media freedom in Europe, the Committee on Culture, Science, Education and Media organised in Paris on 18 December 2012 an exchange of views with Ms Fiona Harrison from Access Info Europe (Madrid) on her study on transparency of media ownership. This study was also presented to the intergovernmental Steering Committee on Media and Information Society (CDMSI) of the Council of Europe on 25 April 2013.

4. Together with Access Info Europe, the Open Society Media Program and the Assembly's Parliamentary Projects Support Division, the Sub-Committee on Media and Information Society of the Committee on Culture, Science, Education and Media organised a conference on transparency of media ownership in Brussels on 24 September 2013. I am particularly grateful to all participants for their contributions.[4]

5. At its meeting in Istanbul on 13 May 2014, the Sub-Committee on Media and Information Society held an exchange of views with Professor Peggy Valcke, University of Leuven, Mr Martin Zachariev, Member of the Committee on Culture and Media of the Parliament of Bulgaria, and Ms Corina Fusu, Vice-Chairperson of the Committee on Culture, Education, Research, Youth, Sport and Media of the Parliament of the Republic of Moldova.

6. Professor Peggy Valcke was subsequently commissioned to prepare a background report on this subject, which she presented to the committee in Strasbourg on 30 September 2014 (document AS/Cult/Inf (2014) 04).[5] This explanatory memorandum is based largely on this substantial report and I am particularly grateful to Professor Valcke.

7. I have also found very useful the 2009 Study on Indicators for Media Pluralism in the [European Union] Member States – Towards a Risk-Based Approach, which was led by Professor Valcke.[6]

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4. Gvozden Flego, Rapporteur on media freedom of the Assembly's Committee on Culture, Science, Education and Media, member of the Parliament of Croatia; José Mendes Bota, Assembly member, Chair of the Committee on Ethics, Citizenship and Media, Assembly of the Republic of Portugal; Mykola Kniazhytsky, Chair of the Sub-committee on Broadcasting, Verkhovna Rada of Ukraine; Chiril Lucinschi, Chair of the Committee on Culture, Education, Research, Youth, Sports and Media, Parliament of the Republic of Moldova; Jasen Mesić, Chair of the Committee on Information and Media, Parliament of Croatia; Marija Obradovic, Deputy Head of the Culture and Information Committee of the National Assembly of Serbia; John Whittingdale, OBE, Chair of the Select Committee on Culture, Media and Sport, House of Commons of the United Kingdom; Renate Weber, Member and Rapporteur of the European Parliament; Fiona Harrison, Access Info Europe; Alexander Kashumov, Access to Information Programme, Bulgaria; Andris Mellakauls, Chair of Council of Europe Steering Committee on Media and Information Society, Head of Section at the Ministry of Culture of Latvia; Peggy Valcke, Research Professor and Expert on Media Law, University of Leuven; Lorena Boix-Alonso, Head of Unit converging media and content, DG CONNECT, European Commission; Marc Gruber, Director, European Federation of Journalists; Francine Cunningham, Executive Director, European Newspaper Publishers Association; Ross Biggam, Director General, Association of Commercial Television in Europe; Jean-François Furnémont, Chair of the European Platform of Regulatory Authorities.

5. www.access-info.org/index.php/en/media-transparency/629-pace-report.

6. https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/final_report_09.pdf.

8. Finally, I have appreciated the up-dated report on the transparency of media ownership in the European Union and neighbouring States, prepared by Rachael Craufurd Smith and Yolande Stolte of the University of Edinburgh on a project by Access Info Europe and the Open Society Program on Independent Journalism.[7]

3. Transparency of media ownership

9. Media ownership transparency is an essential prerequisite for the proper functioning of democracies. Even though transparency is not mentioned explicitly in international human rights charters, it is clear that a meaningful exercise of the freedom of expression and the right to receive and impart information are essential, as recognised in Article 19 of the International Covenant on Civil and Political Rights, Article 10 of the European Convention on Human Rights (ETS No. 5) and Article 11 of the European Union Charter of Fundamental Rights.

10. Genuine freedom of expression also presupposes the existence of a variety of media sources and a diversity of media ownership, as a necessary but not sufficient condition for media pluralism. For many years now, States have adopted measures to preserve the pluralistic character of their media landscape. Such measures prevent, amongst others, that one person or a small group of individuals or companies gain excessive control over those media that influence public opinion and political debate. The European Court of Human Rights expressly confirmed in its judgment *Centro Europa 7 S.r.l. and Di Stefano v. Italy* that, at least in the sensitive audiovisual context, States are under a positive obligation by virtue of Article 10 of the European Convention on Human Rights to "put in place an appropriate legislative and administrative framework to guarantee effective pluralism". In order to monitor, track, and – where necessary and appropriate – take action against concentrations of media power, it is imperative that relevant actors have adequate information about media ownership structures.

3.1. International recognition of the issue

11. The need for increased media ownership transparency has in recent years been recognised by a growing number of political bodies, civil society organisations, NGOs, journalists' associations, regulators and academics. It was the Council of Europe's Committee of Ministers who led the way in drawing attention to the importance of media ownership transparency and urging member States to ensure that "[m]embers of the public … have access on an equitable and impartial basis to certain basic information on the media so as to enable them to form an opinion on the value to be given to information, ideas and opinions disseminated by the media" (1994) and to "adopt any regulatory and financial measures called for in order to guarantee media transparency" (2007).

12. The Parliamentary Assembly Resolution 1636 (2008) on Indicators for Media in Democracy similarly states that "media ownership and economic influence over media must be made transparent". Discussing media pluralism in a changing media landscape, Thomas Hammarberg, the former Council of Europe Commissioner for Human Rights, concluded in 2011 that "[t]here must be transparency of media ownership". And last year, the Assembly adopted Resolution 1920 (2013) on the state of media freedom in Europe, in which it highlights:

> *"The Assembly regrets that media ownership is not made transparent in all member States and asks them to adopt the necessary provisions to this end. Lack of transparency is typically used to hide political or commercial interests in controlling major media companies. The Assembly calls on member States to take proper action for ensuring media transparency and pluralism and promoting journalistic standards."*

13. At the level of the European Union, the European Parliament has frequently expressed its concern at the lack of transparency in media ownership in Europe, and called on the European Commission and the member States to take initiatives in this field. The importance of transparency of media ownership and of funding sources as being a key element in guaranteeing media freedom and pluralism, has been recognised in the EU Council conclusions on media freedom and pluralism in the digital environment of November 2013. In May 2014, the EU Council stated that the European Union would "support actions by third countries to improve transparency of media ownership".

14. The Independent Study on Indicators for Media Pluralism in the member States, carried out at the request of the European Commission in 2008-2009 included "regulatory safeguards for transparency of ownership and/or control" towards the public, on the one hand, and towards the relevant authority, on the

7. http://avada.access-info.org/wp-content/uploads/Transparency_of_Media_Ownership_in_the_EU-09-26-2014.pdf.

other hand, as key indicators to assess risks for media pluralism. The European Commission's High-level Group on Media Freedom and Pluralism identified the lack of media ownership transparency and opacity of funding sources as a challenge for media freedom and pluralism in Europe. And an important aspect in the campaign of the European Citizens' Initiative for Media Pluralism dealt notably with media ownership and transparency, and the prevention of conflicts of interest with political office.

15. The Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE) has also urged member States on several occasions to respect transparency of media ownership. A growing body of academic publications and studies, as well as surveys by NGOs, draw specific attention to the issue – such as the recent study by Access Info Europe and the Open Society Program on Independent Journalism (OSPIJ), formerly the Media Program, which examined the availability of ownership information in 19 European countries (plus Morocco) in 2012. The study culminated in "Ten Recommendations for Transparency of Media Ownership", which were presented at the Council of Europe Conference of Ministers responsible for Media and Information Society in Belgrade (Serbia) in November 2013, and which will be discussed in more detail in the last section of this report.

16. In other words, there seems to be a fairly broad consensus amongst European organisations that transparency of media ownership is essential for media freedom, pluralism and democracy.

3.2. International standards

17. A number of standards for media ownership transparency have been developed at various levels in recent years. Although these are indisputably laudable initiatives, the instruments in which they are enshrined are usually non-binding or have limited utility. At the level of the Council of Europe, three instruments are of particular interest: the European Convention on Transfrontier Television (ETS No. 132) and Committee of Ministers Recommendation No. R (94)13 on measures to promote media transparency and Recommendation CM/Rec(2007)2 on media pluralism and the diversity of media content.

18. In the framework of the European Union, a legal information obligation for audiovisual media service providers has been introduced at the moment of the revision of the Television without Frontiers Directive in 2007. The current Audiovisual Media Services Directive stresses in recital 45 that "because of the specific nature of audiovisual media services, especially the impact of these services on the way people form their opinions, it is essential for users to know exactly who is responsible for the content of these services" and considers it "therefore important for Member States to ensure that users have easy and direct access at any time to information about the media service provider". Despite this seemingly strong commitment to transparency, the actual wording of the relevant provision is much weaker: Article 5 only prescribes that audiovisual media service providers shall make easily, directly and permanently accessible to the recipients of a service at least the following information:

– the name of the media service provider;

– the geographical address at which the media service provider is established;

– the details of the media service provider, including its electronic mail address or website, which allow it to be contacted rapidly in a direct and effective manner;

– where applicable, the competent regulatory or supervisory bodies.

19. A similar provision can be found in the E-Commerce Directive of 2000 for providers of information society services, which in its turn resembles earlier and current information obligations imposed in the context of consumer protection laws. Such obligations to provide certain information – especially the identity and contact details of the provider – prior to delivering the service or goods have as their goal to enable the consumer to contact the provider quickly and communicate with him efficiently in case of typical consumer conflicts (late or no delivery, discrepancies between the service/goods delivered and the service/goods ordered, incorrect price, etc.). But they merely allow the customer to find out the company's name, address and contact details, and not "to know exactly who is responsible for the content of these services". This contrasts with the acclaimed importance of this information in the light of the impact of audiovisual services on the way people form their opinions, as the Audiovisual Media Services Directive itself states.

20. Admittedly, the competence of the European Union to legislate for media pluralism and media ownership transparency is considered controversial, which probably explains why the European legislator did not introduce more stringent obligations in the Audiovisual Media Services Directive (AVMSD) in 2007. In its Resolution of 21 May 2013, the European Parliament called on the Commission to include in the evaluation and revision of the AVMSD also provisions on transparency on media ownership, concentration, and conflict of interest rules to prevent undue influence on the media by political and economic forces, but it remains to be

seen what further steps will follow. Whereas the Council of the European Union recognised the importance of media ownership transparency at its meeting of 26 November 2013, it considers it the task of the member States to take appropriate measures to achieve genuine transparency of media ownership, and only invites the Commission to "strengthen, through non-legislative actions, co-operation between Member States' audiovisual regulatory authorities and promote best practice as regards the transparency of media ownership".

3.3. Requirements for achieving transparency

21. In general, we can distinguish between two types of disclosure requirements: on the one hand, rules that aim to ensure transparency towards regulatory authorities (indirect disclosure), and on the other hand, rules that aim to ensure transparency towards the public (direct disclosure). The first category can be further subdivided into media-specific disclosure requirements, which can be found in media laws, and non-media specific transparency requirements, which are usually laid down in general company laws and/or conflicts of interest legislation targeted at politicians and/or public officials

3.3.1. Which media outlets are subject to disclosure obligations?

22. In order to have complete insight into who controls or influences the provision of news and information, the starting point should be that all relevant media sectors – print, broadcasting, online – are covered without any important exceptions.

23. However, to avoid any undue burden on small independent media outlets, minimise the risk of chilling effects on freedom of expression and keep the workload for regulatory authorities reasonable, a *de minimis* regime should be considered. This could come under the form of an exemption of certain categories of media providers – for instance non-profit community media, outlets with very limited audience/revenue shares or with revenues below a certain threshold, or single-authored media (operated by individuals). Or, disclosure requirements could be limited to certain categories of media outlets, such as those that pursue economic activities; publish on a regular basis; reach certain circulation/distribution/revenue thresholds; involve multiple authors and exercise editorial oversight over the content (as is the case, for example, in Latvia and Iceland).

24. Another important consideration is whether both domestic and foreign media are covered by reporting requirements. Only if the rules apply to all media operating in the country will citizens have access to the information they need to make informed choices about the media they use and be able to evaluate the information they receive. Extending disclosure requirements to foreign companies will be difficult in practice to enforce. Better co-operation between media authorities and linking national databases in Europe can partly overcome such problems, as the media environment is now globalised. Consideration should be given to whether online intermediaries, because of their capacity to select or rank information, should also be brought within the disclosure requirements.

25. However, national legislation on transparency of media ownership should not discriminate against foreign media, but limit its focus on transparency irrespective of where owners are located. In a few member States of the Council of Europe, there seems to be a political tendency to restrict or even exclude foreign ownership of media outlets, often for political reasons. Article 10 of the European Convention on Human Rights protects media freedom "regardless of frontiers" and, therefore, media outlets should not work behind national walls.

3.3.2. To whom must disclosure be made?

26. The ideal scenario combines direct and indirect disclosure requirements to ensure maximum transparency. Having only direct disclosure obligations in place entails the risk that information provided is too technical in nature and difficult to understand for the general public. This problem can be overcome under a system of indirect disclosure requirements, whereby media regulators gather relevant data and make those available in a meaningful way to the public (for example by identifying cross-links between media owners, visualising data in clear graphs or schemes). Admittedly, this requires an independent and well-performing regulatory body with sufficient resources and staff – a condition which may not be fulfilled in all Council of Europe countries (yet).

27. Whereas such obligations are already quite common in the broadcasting sector, this is not, or much less, the case for printed press and the Internet given the sensitivity that exists regarding State regulation of these sectors. In the light of the growing convergence between text and audiovisual media, it can however be justified that certain legal obligations – like transparency requirements – apply equally to all media sectors.

3.3.3. Which data is required to be disclosed?

28. The starting point should be that the amount and type of data required should be relevant, appropriate, adequate and proportionate to the aim pursued, which is to detect undue forms of control or influence on media and to enable citizens to evaluate the quality of information provided by the media so they can make better informed political as well as personal decisions. It is obvious that identification and contact information, as currently requested by the Audiovisual Media Services Directive, is far from sufficient to achieve this goal. A first step to finding out who is controlling a particular media outlet is to obtain data on the ownership structure of the organisation that has editorial responsibility: who is participating in the structure, who is holding shares and in what percentage? It is important here to set disclosure limits at an appropriate level. Whereas it may make not much sense to require data on minor shareholders, thresholds for disclosure should not be set at too high a level either.

29. In order to understand who really owns a media outlet it will often be necessary to look behind the front-line shareholdings and consider indirect shareholdings, as well as hidden shareholdings where the real owner may not be disclosed at all. Even where the law requires information about hidden owners, it can be a challenge to establish whether the information provided is correct. With hidden holdings the object will often be to hide the real owner for commercial or political reasons and it is thus to be expected that such information will not readily be divulged.

30. In addition, to grasp the full picture, it is also important to have insight into:

– affiliated interests (that is interests in media outlets held by individuals affiliated to the owner, in particular family members);

– linked holdings or cross-holdings in other companies (that is information on the nature and the extent of the interests held by media owners in other media outlets, or even in other economic sectors).

31. In order to understand in greater detail not just who owns but also who controls the media (transparency of influence), it is imperative to have also details about other persons or bodies likely to exercise a significant influence on the editorial policy. One category are persons who take up key positions in the company (senior management, such as directors, key executive officers, the managing editor). Another category are sponsors; financial data, in particular information about the sources of media funding, can reveal potentially significant commercial or political influences (via State subsidies, advertising or donations), as well as media influence on political parties or State bodies.

32. In addition, it has been argued that disclosure requirements should also cover political or religious affiliations in order to help illuminate potential influences on the programming policy or editorial policy (or inversely, media influence on political parties or State bodies).

3.3.4. How accessible is the information to the public?

33. Accessibility is not only a matter of availability of the information, but also of reducing its level of complexity. Economic data are often very technical and not easy to grasp by non-experts. It is therefore advisable to consider also procedural aspects when framing media ownership transparency provisions.

3.3.5. How effective is the disclosure regime?

34. To ensure that information is comprehensive, accurate and readily accessible to the public, in other words that disclosure is effective, databases should be kept up-to-date and disclosure requirements should be backed by effective oversight and appropriate sanctions.

4. The situation in Europe

35. A number of recent comparative studies have taken a closer look at existing disclosure requirements in European States, the most recent one being the media integrity research conducted between July 2013 and February 2014 as part of the regional project South East European Media Observatory. The study covered five countries in south-east Europe: Albania, Bosnia and Herzegovina, Croatia, “the former Yugoslav Republic of Macedonia” and Serbia (all Council of Europe members). With regard to media ownership transparency, the research findings paint a grim picture of the situation in those countries, despite a number of laudable initiatives in recent years to increase transparency and combat political instrumentalisation of the media.

36. A systematic survey that specifically focused on transparency in media ownership was carried out by the Open Society Program on Independent Journalism and Access Info Europe in 2012 (hereafter: "TMO Study"). The study looked at media-specific regulations and company laws in 19 Council of Europe countries in different parts of Europe (plus Morocco) to assess the extent to which data on ownership of media outlets is available to the public (directly or via the regulator).

37. The conclusion was that in more than half of the countries surveyed, the existing rules on company and media ownership do not permit members of the public to know who the real or hidden owners of the media are, and in the majority of countries the legal framework fails to ensure public access to information about the owners of print or online media.

38. The survey did, however, also find best practice models and examples of how to ensure transparency of media ownership. The subsequent paragraphs describe these best practices drawn from different countries but structured along the lines of two specific case studies, namely Norway (whose regime can be considered the most advanced for a number of reasons according to Access Info's report for the High-Level Group on Media Freedom and Pluralism) and Croatia (whose legislation is well defined, but where implementation is lacking). A third item looks specifically at self-regulatory and voluntary bottom-up initiatives.

5. The way forward

39. The aforementioned TMO study carried out by Access Info and OSPIJ resulted in "Ten Recommendations on Transparency of Media Ownership".[8] The recommendations spell out, *inter alia*, which categories of information should be provided to media authorities; which thresholds for disclosure are needed; how the information should be collected; and how and where it should be made available. They have been improved by consultation with nearly a hundred civil society activists and media experts, and tested by discussion with European officials and parliamentarians in Brussels, including – very constructively – the Parliamentary Assembly of the Council of Europe.

40. In essence, the recommendations require three major action points that are to be realised at national level:

– States should put in place a clear and precise legal framework imposing mandatory reporting requirements on broadcast, print and comparable online media to allow identification of their hidden and ultimate owners, back to natural persons;

– an independent body should exercise effective oversight over these requirements;

– the public should have access free of charge to relevant information on media ownership directly through the media's websites and through an online centralised database published by the media authority.

41. Nine recommendations of the TMO study focus on what national parliaments in Europe can/should do to improve ownership transparency in the media sector, since this is the policy level closest to the "field" and capable of producing the most direct results. But as the realisation of genuine transparency will depend on a concerted effort of different stakeholders at various levels, the tenth recommendation rightfully deals with transnational access and comparability.

42. The Council of Europe should continue promoting detailed standards in the area of media ownership transparency and urging members to implement those standards at national level. The European Union should consider introducing media ownership transparency standards in a legislative instrument in order to create the tools to enforce compliance in European Union member States. These standards should be in accordance with those developed by the Council of Europe and consistency should be ensured with initiatives in other areas, such as against money laundering.

43. As elaborated above, national parliaments should put in place a detailed legal framework that introduces, or further develops, strong disclosure requirements and that empowers the regulatory body(-ies) to operationalise these requirements.

44. Regulatory bodies should co-ordinate and exchange examples of good practice – for instance via the European Platform of Regulatory Authorities (EPRA) or the European Regulators Group for Audiovisual Media Services – with a view to creating a common format for systematic data gathering and registration. A greater

8. http://avada.access-info.org/wp-content/uploads/TMO_Recommendations_05_November_2013.pdf.

consistency in the various domestic databases will enable interconnection between them, render administrative obligations less onerous for firms operating in multiple countries, and facilitate cross-country comparisons.

45. Relevant non-governmental, civil society and academic organisations, as well as commercial operators and professional bodies should be consulted in this process for two reasons. Firstly, they have often taken important initiatives to enhance media ownership transparency and hence developed valuable experience in this area. Secondly, their role in creating "a culture of transparency" is not to be underestimated.

46. Finally, one should not forget that installing a sound legal framework is but the first step, albeit a crucial one, on the road to genuine ownership transparency. Equally crucial is the effective implementation of the legal rules – which requires, in addition to bold legislators, also independent and performing regulators, co-operative media outlets, and vigilant civil society watchdogs. Judicial bodies at all levels – European and national – should be encouraged to expressly recognise the links between freedom of expression, media pluralism and a functioning democracy, on the one hand, and media ownership transparency, on the other.

47. In other words, fostering a genuine culture of transparency is the responsibility of all parties involved. It cannot be denied, though, that national parliaments are in the driver's seat. They may have a bumpy road ahead of them, but as the saying goes: "A burden shared is a burden halved". So if national and international actors co-ordinate their efforts, the burden of ensuring media ownership transparency – which, admittedly, is obviously not light – might not be so unbearable after all.

6. Conclusions

48. As found in the TMO study, the absence or limited nature of media specific or general disclosure provisions in many States means that citizens are unable to establish who owns or controls the media operating in their country. Therefore, further action is needed at the domestic level.

49. Judicial and legislative bodies should be encouraged to expressly recognise the links between freedom of expression, media plurality and a functioning democracy, on the one hand, and media ownership transparency, on the other.

50. Steps should be taken to adopt freedom of information legislation in those States that have yet to do so in line with Recommendation No. R (81) 19 of the Committee of Ministers on access to information held by public authorities and the Council of Europe Convention on Access to Official Documents (CETS No. 205).

51. In order to fully understand who effectively owns or controls these media outlets, it is also necessary for the following types of information to be disclosed: indirect and hidden holdings, affiliated interests, linked holdings in other companies, and potentially significant commercial or political influences, for instance from public advertising or donations.

52. States and their regulatory bodies should co-ordinate and exchange examples of good practice with a view to gradually establishing concrete standards relating to media ownership transparency. These should build, *inter alia*, on the categories identified in Committee of Ministers Recommendation CM/Rec(2007)2 on media pluralism and the diversity of media content.

53. If they have not yet done so, States should introduce measures requiring politicians and public officials to declare any interest they may have in media outlets.

54. The Council of Europe and European Union should further co-ordinate their activities to enhance media ownership transparency in Europe. The development of a European-wide database should also be explored, possibly building on the information already being recorded by the European Audiovisual Observatory and including both print and online media.