

Increase ambition and consistency of the European Media Freedom Act (EMFA)

Proposed amendments to articles 6-2, 16, 17 and 24 of the EMFA

Commission's text Article 6-2

2. Without prejudice to national constitutional laws consistent with the Charter, media service providers providing news and current affairs content shall take measures that they deem appropriate with a view to guaranteeing the independence of individual editorial decisions. In particular, such measures shall aim to:

(a) guarantee that editors are free to take individual editorial decisions in the exercise of their professional activity; and

(b) ensure disclosure of any actual or potential conflict of interest by any party having a stake in media service providers that may affect the provision of news and current affairs content.

RSF proposed amendments Article 6-2

2. Media service providers providing news and current affairs content shall take measures ~~that they deem appropriate~~ with a view to guaranteeing the ~~independence of individual editorial decisions~~ honesty, independence and pluralism of news and information. They shall in particular:

~~(a) guarantee that editors are free to take individual editorial decisions in the exercise of their professional activity; and~~ develop codes of conduct, in cooperation with publishers, editors and representatives of journalists, establishing the essential principles of independence, freedom and reliability of information, and specifying the rights and obligations of journalists, executives, editors and shareholders, in line with widely recognised and accepted standards of professional and ethical journalism, such as ISO-type standards¹.

The code of conduct shall be opposable to journalists, heads of the editorial department, publishers, owners, shareholders and advertisers.

The code shall in particular :

- define internal editorial decision-making processes.
- provide for the right of editorial teams to oppose the appointment of the head of the editorial department
- establish internal Committees tasked with handling complaints for violation of the charter, or violation of the principles of honesty, independence of pluralism of news and information, filed by recipients or staff of media service providers.

(b) Media service providers may take additional measures as they deem appropriate.

¹ see the CEN Workshop agreement CWA 17493:2019 of the Journalism Trust Initiative (JTI)

Commission's text
Article 16

1. The Board shall coordinate measures by national regulatory authorities or bodies related to the dissemination of or access to media services provided by media service providers established outside the Union that target audiences in the Union where, inter alia in view of the control that may be exercised by third countries over them, such media services prejudice or present a serious and grave risk of prejudice to public security and defence.

2. The Board, in agreement with the Commission, may issue opinions on appropriate national measures under paragraph 1. All competent national authorities, including the national regulatory authorities or bodies, shall do their utmost to take into account the opinions of the Board.

RSF proposed amendments
Article 16

1. Member States shall provide, in their national legal systems on audiovisual media, substantive and procedural rules ensuring the equal treatment of all broadcast audiovisual media irrespective of their means of distribution or access and their country of establishment or origin, and ensuring in particular that media service providers established or originated from outside the Union cannot be distributed or accessed within the Union while not being subjected to the same conditions or requirements as media service providers established in the Union.

2. National substantive rules on the licensing or authorization of audiovisual media should contain rules concerning respect for the principles of honesty, independence and pluralism of news and information and mechanisms listed in article 6.

3. National regulatory authorities or bodies shall have competence to suspend or restrict distribution by actors based in the EU of media service providers established or originated from outside the Union, even when such media service providers target an audience mainly outside the EU.

4. The Board shall facilitate and coordinate additional measures by national regulatory authorities or bodies related to the dissemination of or access to media services by providers established or originated from outside the Union, irrespective of their means of distribution or access and their country of establishment or origin, that target or reach audiences in the Union where, inter alia in view of the control that may be exercised by third countries over them, such media services prejudice or present a serious and grave risk of prejudice to public security and defence or public health, where their programmes contain an incitement to hatred on the grounds of race, sex, religion or nationality, or incitements for serious violation of human rights, or where their programmes violate the human dignity of individual persons. Such additional measure shall in particular concern the definition and implementation of conditions to access the Union's information space of article 16 a

5. The Board, in agreement with the Commission or on its own initiative, may issue opinions on appropriate national measures under paragraph 1.

All competent national authorities, including the national regulatory authorities or bodies, shall do their utmost to take into account the opinions of the Board.

**Article 16 a (new):
Proposal for an additional mechanism
on the conditions to access the Union's
information space**

Article 16 a : conditions to access the Union's information space

1. Access to the EU for media service providers or online actors based in a third country shall be conditioned upon :

- the degree of openness of the said third country to media service providers established in the EU, and
- the degree of independence of concerned third country media service providers or online actors from the authorities of the said third country.

2. Evaluation of the degree of openness of a third country and independence of concerned media shall be performed by an independent organization dedicated to the setting-up of democratic safeguards in the digital space, equipped with the expertise to perform such an evaluation².

3. On the basis of the independent evaluation, the Board may propose the following measures, and the Commission may :

(a) place restrictions on the access of online platforms based in the concerned third country to the Union's information space

(b) make media service providers, websites and social media accounts with a significant level of audience or influence (turnover, staff size) subject of:

- restriction or blocking by Internet access and satellite service providers
- visibility restriction or delisting by search engines and social media

² *Such as the International Observatory on Information and Democracy of the Forum for Information and democracy. The Forum is the civil society-led implementation body of the International Partnership for Information and Democracy (signed by 50 countries, including 25 EU Member States), mandated with developing recommendations as well as regulatory and self-regulatory responses, with contributions from diverse experts and stakeholders.*

(c) limit investments in the media sector from closed countries.

4. Such measures shall be implemented in a fair process and in proportion to the level of violation of freedom of opinion and expression in the country concerned and of the independence from the authorities of that country of the concerned actors

5. The European External Action Service shall engage in negotiations with third countries which ban or restrict the entry in their territory of content published or broadcasted by european-based Media service providers, and which export to the Union content produced by media under government control. Such negotiation shall be conducted with a view to promote the opening of such countries and to reduce asymmetries between the said country and the Union.

Commission's text Article 17

1. Providers of very large online platforms shall provide a functionality allowing recipients of their services to declare that:

(a) it is a media service provider within the meaning of Article 2(2);

(b) it is editorially independent from Member States and third countries; and

(c) it is subject to regulatory requirements for the exercise of editorial responsibility in one or more Member States, or adheres to a co-regulatory or self-regulatory mechanism governing editorial standards, widely recognised and accepted in the relevant media sector in one or more Member States.

2. Where a provider of very large online platform decides to suspend the provision of its online intermediation services in relation to content provided by a media service provider that submitted a declaration pursuant to paragraph 1 of this Article, on the grounds that such content is incompatible with its terms and conditions, without that content contributing to a systemic risk referred to in Article

RSF proposed amendments Article 17

1. Providers of VLOPs and VLSEs shall provide a functionality allowing recipients of their services to declare that:

(a) it is a media service provider within the meaning of Article 2(2);

(b) it is editorially independent from Member States and third countries; and

(c) it is subject to **supervision of an independent national regulatory authority or body for the exercise of editorial standards if applicable, AND adheres to a co-regulatory or self-regulatory mechanism governing editorial standards**, widely recognised and accepted in the relevant media sector in one or more Member States, **such as ISO-type standards of professional and ethical journalism³**

17-1 a (new) : **For the purpose of point (c) of article 17-1, providers of VLOP/VLSEs shall provide a functionality allowing recipients of their services to indicate the contact details of the relevant national regulatory authorities or bodies AND representatives of the co- or**

³ see the *CEN Workshop agreement CWA 17493:2019 of the Journalism Trust Initiative (JTI) developed under the aegis of the European Committee for Standardization*,

26 of the Regulation (EU) 2022/XXX [Digital Services Act], it shall take all possible measures, to the extent consistent with their obligations under Union law, including Regulation (EU) 2022/XXX [Digital Services Act], to communicate to the media service provider concerned the statement of reasons accompanying that decision, as required by Article 4(1) of Regulation (EU) 2019/1150, prior to the suspension taking effect.

3. Providers of very large online platforms shall take all the necessary technical and organisational measures to ensure that complaints under Article 11 of Regulation (EU) 2019/1150 by media service providers that submitted a declaration pursuant to paragraph 1 of this Article are processed and decided upon with priority and without undue delay.

4. Where a media service provider that submitted a declaration pursuant to paragraph 1 considers that a provider of very large online platform frequently restricts or suspends the provision of its services in relation to content provided by the media service provider without sufficient grounds, the provider of very large online platform shall engage in a meaningful and effective dialogue with the media service provider, upon its request, in good faith with a view to finding an amicable solution for terminating unjustified restrictions or suspensions and avoiding them in the future. The media service provider may notify the outcome of such exchanges to the Board.

5. Providers of very large online platforms shall make publicly available on an annual basis information on:

(a) the number of instances where they imposed any restriction or suspension on the grounds that the content provided by a media service provider that submitted a declaration in accordance with paragraph 1 of this Article is incompatible with their terms and conditions; and

(b) the grounds for imposing such restrictions.

6. With a view to facilitating the consistent and effective implementation of this Article, the Commission may issue guidelines to establish the form and details of the declaration set out in paragraph 1.

self-regulatory mechanisms. These contact details shall be made public.

17-2 b (new) : Where media service providers consider that a very large online platform or very large search engine have unjustly declined their declaration under paragraph 1, they may ask the respective relevant national regulatory authorities or bodies and representatives of the co- or self-regulatory mechanisms to attest of their status according to the said authority, body or mechanism, such as a certificate of compliance with the ISO-type standard referred to above. Where the very large online platform does not accept the clarification of the relevant national authority, the media service provider may consult the Board.

2. Where a provider of very large online platform or very large search engine ~~decides~~ intends to suspend or restrict the provision of its online intermediation services, in relation to content provided by a media service provider that submitted a declaration pursuant to paragraph 1 (amended as per RSF proposal especially in article 17-1, c) of this Article, on the grounds that such content is incompatible with its terms and conditions, without that content contributing to a systemic risk referred to in Article 26 of the Regulation (EU) 2022/2065], it shall ~~take all possible measures, to the extent consistent with their obligations under Union law, including Regulation XXX [DSA], to communicate :~~

(a) **give a prior notice** to the media service provider concerned **containing** the statement of reasons accompanying that decision, as required by Article 4(1) of Regulation (EU) 2019/1150 and Article 17(3) of Regulation (EU) 2022/2065,

(b) **provide the media service provider concerned with an opportunity to reply to the statement of reasons within 48 hours prior to the restriction or suspension taking effect. A provider of a very large online platform shall not restrict or suspend the provision of its online intermediation services in relation to content or services provided by a media service provider where that media service provider has reasonably demonstrated that the content or services in question is in accordance with the national law of the Member State concerned or with EU law, and does not contribute to a systemic risk as referred to in article 26 of Regulation (EU) 2022/2065**

(c) **process and decide upon with priority and no later than 24 hours after submission of the complaint.**

3. Where a provider of a very large online platform or very large search engine, in spite of the demonstration by a media service provider that the said content or services are in accordance with the national law of the Member State concerned or with EU law, nevertheless intends to restrict or suspend the provision of its online intermediation services in relation to the said content or services, it shall refer the matter to the out-of-court dispute settlement body provided for by article 18 of Regulation (EU) 2022/2065. Very Large Online Platforms or very large search engines shall comply with the decisions of the out-of-court dispute settlement body. No content shall be suspended or restricted before a final decision of the internal mechanism. Decisions by this internal complaint mechanism may be appealable before a court of law. Appeal shall be suspensive.

4. Providers of very large online platforms shall take all the necessary technical and organisational measures to ensure that complaints under Article 11 of Regulation (EU) 2019/1150 by media service providers that submitted a declaration pursuant to paragraph 1 of this Article are processed and decided upon with priority and **no later than 24 hours after submission of the complaint. Where the very large online platform fails to adhere to that time limit, it shall make visible or reinstate the content or service without undue delay.**

5. When providers of a very large online platform or very large search engine subsequently decide to suspend or restrict content of a media service provider that submitted a declaration pursuant to paragraph 1 of this article, it shall provide in writing a detailed statement of reasons.

**Article 17 a (new):
Proposal for an additional mechanism
for the due prominence of reliable
sources of information**

Article 17 a (new) : Due prominence of reliable sources of information

Very Large online platforms and Very Large Search Engines shall take measures to promote the visibility, findability and prominence, in their recommender systems or feed, of content published by Media service providers that can demonstrate they comply with professional and ethical standards of journalism. Certification under ISO-type standards of professional and ethical journalism developed under the aegis of

the European Committee for Standardization such as the CEN Workshop Agreement CWA 17493:2019 of the Journalism Trust Initiative shall serve as the reference criteria to that end⁴.

**Article 24 b (new):
Proposal for an additional provision to
secure additional advertising revenue to
the media**

**Article 24 b (new) : Allocation of advertising
revenues to the media**

**Member States shall implement mechanisms to
ensure advertisers redirect a portion of their
advertising investments to media service
providers that meet the criteria of article 17-1**

**To that end, member States shall adopt
appropriate measures in the form of a tax or tax
credit for advertising placements in media
service providers that meet the criteria of article
17-1.**

⁴ see CEN Workshop agreement CWA 17493:2019 of the [Journalism Trust Initiative \(JTI\)](#)