



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Committee of Ministers
Comité des Ministres

**Recommendation Rec(2007)2
of the Committee of Ministers to member states
on media pluralism and diversity of media content**

*(Adopted by the Committee of Ministers on 31 January 2007
at the 985th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and promoting the ideals and principles which are their common heritage and fostering economic and social development;

Recalling Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), which guarantees freedom of expression and freedom to receive and impart information and ideas without interference by public authority and regardless of frontiers;

Recalling its Declaration on the freedom of expression and information, adopted on 29 April 1982, which stresses that a free flow and wide circulation of information of all kinds across frontiers is an important factor for international understanding, for bringing peoples together and for the mutual enrichment of cultures;

Recalling its Recommendation Rec(2000)23 on the independence and functions of regulatory authorities for the broadcasting sector and its Explanatory Memorandum, which stress the importance of the political, financial and operational independence of broadcasting regulators;

Recalling the opportunities provided by digital technologies as well as the potential risks related to them in modern society as stated in its Recommendation Rec(2003)9 on measures to promote the democratic and social contribution of digital broadcasting;

Recalling its Recommendation No. R (99) 1 on measures to promote media pluralism and its Recommendation No. R (94) 13 on measures to promote media transparency, the provisions of which should jointly apply to all media;

Noting that, since the adoption of Recommendations No. R (99) 1 and No. R (94) 13, important technological developments have taken place, which make a revision of these texts necessary in order to adapt them to the current situation of the media sector in Europe;

Having regard to its Declaration on cultural diversity, adopted on 7 December 2000, and to the provisions on media pluralism contained in the European Convention on Transfrontier Television (ETS No. 132);

Bearing in mind the provisions of the UNESCO Convention on the protection and promotion of the diversity of cultural expressions, adopted on 20 October 2005, which proclaim the sovereign right of states to formulate and implement their cultural policies and to adopt measures to protect and promote intercultural dialogue and the diversity of cultural expressions, in particular, measures aimed at enhancing the diversity of the media including through public service broadcasting;

Reaffirming that media pluralism and diversity of media content are essential for the functioning of a democratic society and are the corollaries of the fundamental right to freedom of expression and information as guaranteed by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Considering that the demands which result from Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms will be fully satisfied only if each person is given the possibility to form his or her own opinion from diverse sources of information;

Recognising the crucial contribution of the media in fostering public debate, political pluralism and awareness of diverse opinions, notably by providing different groups in society – including cultural, linguistic, ethnic, religious or other minorities – with an opportunity to receive and impart information, to express themselves and to exchange ideas;

Recalling the importance of transparency of media ownership so as to ensure that the authorities in charge of the implementation of regulations concerning media pluralism can take informed decisions, and that the public can make its own analysis of the information, ideas and opinions expressed by the media;

Reaffirming that, in order to protect and actively promote the pluralistic expressions of ideas and opinions as well as cultural diversity, member states should adapt the existing regulatory frameworks, particularly with regard to media ownership, and adopt any regulatory and financial measures called for in order to guarantee media transparency and structural pluralism as well as diversity of the content distributed;

Recalling that the efforts expected from all member states in this field should take into account the necessary editorial independence of newsrooms, the stakes, risks and opportunities inherent to the development of new means of communication, as well as the specific situation of each of the audiovisual and written media that these measures affect, whether it be print and on-line press services, or radio and television services, whichever platforms are used for the transmission;

Bearing in mind that national media policy may also be oriented to preserve the competitiveness of domestic media companies in the context of the globalisation of markets and that the transnational media concentration phenomena can have a negative impact on diversity of content,

Recommends that governments of member states:

- i. consider including in national law or practice the measures set out below;
- ii. evaluate at national level, on a regular basis, the effectiveness of existing measures to promote media pluralism and content diversity, and examine the possible need to revise them in the light of economic, technological and social developments on the media;
- iii. exchange information about the structure of media, domestic law and studies regarding concentration and media diversity.

Recommended measures

I. Measures promoting structural pluralism of the media

1. General principle

1.1. Member states should seek to ensure that a sufficient variety of media outlets provided by a range of different owners, both private and public, is available to the public, taking into account the characteristics of the media market, notably the specific commercial and competition aspects.

1.2. Where the application of general competition rules in the media sector and access regulation are not sufficient to guarantee the observance of the demands concerning cultural diversity and the pluralistic expressions of ideas and opinions, member states should adopt specific measures.

1.3. Member states should in particular envisage adapting their regulatory framework to economic, technological and social developments taking into account, in particular, the convergence and the digital transition and therefore include in it all the elements of media production and distribution.

1.4. When adapting their regulatory framework, member states should pay particular attention to the need for effective and manifest separation between the exercise of political authority or influence and control of the media or decision making as regards media content.

2. *Ownership regulation*

2.1. Member states should consider the adoption of rules aimed at limiting the influence which a single person, company or group may have in one or more media sectors as well as ensuring a sufficient number of diverse media outlets.

2.2. These rules should be adapted to the size and the specific characteristics of the national, regional or local audiovisual media and/or text-based media market to which they would be applicable.

2.3. These rules may include introducing thresholds based on objective and realist criteria, such as the audience share, circulation, turnover/revenue, the share capital or voting rights.

2.4. These rules should make it possible to take into account the horizontal integration phenomena, understood as mergers in the same branch of activity – in this case mono-media and multi-media concentrations –, as well as vertical integration phenomena, that is, the control by a single person, company or group of some of the key elements of production, distribution and related activities such as advertisement or telecommunications.

2.5. Furthermore, member states should review on a regular basis the established thresholds in the light of ongoing technological, economic and social developments in order not to hinder innovations in the media field.

2.6. Whether they are, or are not, specific to the audiovisual and written media, the authorities responsible for the application of these rules should be vested with the powers required to accomplish their mission, in particular, the power to refuse an authorisation or a license request and the power to act against concentration operations of all forms, notably to divest existing media properties where unacceptable levels of concentration are reached and/or where media pluralism is threatened. Their competences could therefore include the power to require commitments of a structural nature or with regard to conduct from participants in such operations and the capacity to impose sanctions, if need be.

3. *Public service media*

3.1. Member states should ensure that existing public service media organisations occupy a visible place in the new media landscape. They should allow public service media organisations to develop in order to make their content accessible on a variety of platforms, notably in order to ensure the provision of high-quality and innovative content in the digital environment and to develop a whole range of new services including interactive facilities.

3.2. Member states should encourage public service media to play an active role in promoting social cohesion and integrating all communities, social groups and generations, including minority groups, young people, the elderly, underprivileged and disadvantaged social categories, disabled persons, etc., while respecting their different identities and needs. In this context, attention should be paid to the content created by and for such groups, and to their access to, and presence and portrayal in, public service media. Due attention should also be paid to gender equality issues.

3.3. Member states should invite public service media organisations to envisage the introduction of forms of consultation with the public, which may include the creation of advisory structures, where appropriate reflecting the public in its diversity, so as to reflect in their programming policy the wishes and requirements of the public.

3.4. Member states should adopt the mechanisms needed to guarantee the independence of public service media organisations vital for the safeguard of their editorial independence and for their protection from control by one or more political or social groups. These mechanisms should be established in co-operation with civil society.

3.5. Member states should define ways of ensuring appropriate and secure funding of public service media from a variety of sources – which may include licence fees, public funding, commercial revenues and/or individual payment – necessary for the discharge of their democratic, social and cultural functions.

4. *Other media contributing to pluralism and diversity*

Member states should encourage the development of other media capable of making a contribution to pluralism and diversity and providing a space for dialogue. These media could, for example, take the form of community, local, minority or social media. The content of such media can be created mainly, but not exclusively, by and for certain groups in society, can provide a response to their specific needs or demands, and can serve as a factor of social cohesion and integration. The means of distribution, which may include digital technologies, should be adapted to the habits and needs of the public for whom these media are intended.

5. *Access regulation and interoperability*

5.1. Member states should ensure that content providers have fair access to electronic communication networks.

5.2. In order to promote the development of new means of communication and new platforms and reduce the risk of bottlenecks that block the availability of a broad variety of media content, member states should encourage a greater interoperability of software and equipment, as well as the use of open standards by the manufacturers of software and equipment and by the operators of the media and the electronic communications sectors.

5.3. This result should be obtained by means of improved co-operation between all interested parties, supported, if necessary and with the aim of not hindering innovation, by the relevant authorities.

5.4. Member states should ensure that their regulatory bodies and other relevant authorities have the necessary skills in order to assess how economic and technical developments will affect the structure of the media and their ability to perform their cultural role.

6. *Other support measures*

6.1. Member states should take any financial and regulatory measures necessary to protect and promote structural pluralism of audiovisual and print media.

6.2. These measures may include support and encouragement aimed at facilitating the digital switchover for traditional broadcast media, and, where appropriate, the digital transition for print media.

II. *Measures promoting content diversity*

1. *General principle*

Pluralism of information and diversity of media content will not be automatically guaranteed by the multiplication of the means of communication offered to the public. Therefore, member states should define and implement an active policy in this field, including monitoring procedures, and adopt any necessary measures in order to ensure that a sufficient variety of information, opinions and programmes is disseminated by the media and is available to the public.

2. *Promotion of a wider democratic participation and internal diversity*

2.1. Member states should, while respecting the principle of editorial independence, encourage the media to supply the public with a diversity of media content capable of promoting a critical debate and a wider democratic participation of persons belonging to all communities and generations.

2.2. Member states should, in particular, encourage the media to contribute to intercultural and inter-religious dialogue, so as to promote mutual respect and tolerance and to prevent potential conflicts through discussions.

To this end, member states should:

- on the one hand, encourage the media to adopt or strengthen a voluntary policy promoting minorities in their internal organisation in all its branches, in order to reflect society's diverse composition and reinforce social cohesion;
- on the other hand, in order to take into account the emergence of new means of communication resulting from dynamic technological changes, consider taking actions in order to promote digital media literacy and to bridge the so-called "digital divide".

3. Allocation of broadcasting licences and must carry/must offer rules

3.1. Member states should consider introducing measures to promote and to monitor the production and provision of diverse content by media organisations. In respect of the broadcasting sector, such measures could be to require in broadcasting licences that a certain volume of original programmes, in particular as regards news and current affairs, is produced or commissioned by broadcasters.

3.2. Member states should consider the introduction of rules aimed at preserving a pluralistic local media landscape, ensuring in particular that syndication, understood as the centralised provision of programmes and related services, does not endanger pluralism.

3.3. Member states should envisage, where necessary, adopting must carry rules for other distribution means and delivery platforms than cable networks. Moreover, in the light of the digitisation process - especially the increased capacity of networks and proliferation of different networks - member states should periodically review their must carry rules in order to ensure that they continue to meet well-defined general interest objectives. Member states should explore the relevance of a must offer obligation in parallel to the must carry rules so as to encourage public service media and principal commercial media companies to make their channels available to network operators that wish to carry them. Any resulting measures should take into account copyright obligations.

4. Support measures

4.1. Support measures for the creation, production and distribution of audiovisual, written and all types of media contents which make a valuable contribution to media diversity should be considered. Such measures could also serve to protect and promote the diversity of the sources of information, such as independent news agencies and investigative journalism. Support measures for media entities printing or broadcasting in a minority language should also be considered.

4.2. Without neglecting competition considerations, any of the above support measures should be granted on the basis of objective and non-partisan criteria, within the framework of transparent procedures and subject to independent control. The conditions for granting support should be reconsidered periodically to avoid accidental encouragement for any media concentration process or the undue enrichment of enterprises benefiting from support.

5. Raising awareness of the role of medias

5.1. Member states should support the training of media professionals, including on-going training, and encourage such training to address the role that media professionals can play in favour of diversity. Society at large should be made aware of this role.

5.2. Diversity could be included as an objective in the charters of media organisations and in codes of ethics adopted by media professionals.

III. Media transparency

1. Member states should ensure that the public have access to the following types of information on existing media outlets:

- information concerning the persons or bodies participating in the structure of the media and on the nature and the extent of the respective participation of these persons or bodies in the structure concerned and, where possible, the ultimate beneficiaries of this participation;

- information on the nature and the extent of the interests held by the above persons and bodies in other media or in media enterprises, even in other economic sectors;
 - information on other persons or bodies likely to exercise a significant influence on the programming policy or editorial policy;
 - information regarding the support measures granted to the media;
 - information on the procedure applied in respect of the right of reply and complaint.
2. Member states should prompt the media to take any measures which could allow the public to make its own analysis of information, ideas and opinions expressed in the media.

IV. Scientific research

1. Member states should support scientific research and study in the field of media concentration and pluralism and promote public debate on these matters. Particular attention could be paid to the effect of media concentration on diversity of media content, on the balance between entertainment programmes, and information and programmes fostering the public debate, on the one hand, and on the contribution of the media to intercultural dialogue on the other.
2. Member states should support international research efforts focused on transnational media concentration and its impact on different aspects of media pluralism.