

## European Citizen's Initiative

### proposed by the coalition European Initiative for Media Pluralism

We demand the endorsement of a new directive (or the adoption of an amendment to the Audiovisual Media Services Directive) aiming at a partial harmonization of national rules on media ownership as a necessary step towards the correct functioning of the internal market. Such a legislation will also promote a more intense protection of fundamental rights in the European Union.

The proposal aims at introducing harmonized rules in national legislations with regard to the protection of pluralism in the media.

Every citizens' initiative proposal for the adoption of a new legislation shall fall within the sphere of legislative competence of the European Union. The European Union can exercise its competences whenever the proper functioning of the internal market is negatively influenced by the existence and application of different national provisions in any sector which is not expressly excluded from the founding Treaties. Notably, European legislation on media already deals with cultural diversity, as in the case of the AVMSD rules on quotas of European production, so there is no reason to deny competence on media ownership, whose ultimate goal is to guarantee political diversity.

In practice, an analysis of national provisions on mass media ownership brings out the fact that there are different parameters to define positions prejudicial to pluralism (number of channels controlled, resources, audience share). Moreover, the various national legislations in Europe adopt very different solutions to tackle positions prejudicial to pluralism, and contain diverging rules concerning incompatibility between political (*lato sensu*) activities and ownership or control of mass media ("disqualified persons"). Finally, whereas some countries impose obligations to ensure transparency of media ownership as well as financial transparency, other countries still do not have adopted such rules (even though they are a necessary prerequisite for the effective implementation of rules to avoid concentration and to increase plurality). These differences endanger the functioning of the internal market by hindering the right of establishment (art. 49 TFEU) and the free movement of services (art. 56 TFEU).

In brief, the complexity created by a patchwork of different national rules discourages companies from entering new markets, in particular where subjects holding shares in a media undertaking also play a significant role in the political arena. This justifies the full competence of the Union to take action through an approximation of national laws (arts. 26, 50 and 114 of the Treaty on the Functioning of the European Union). As a general rule, in shaping these new provisions, the Union is required to uphold the highest protection to fundamental rights as guaranteed by the EU legal order, in particular the freedom of information as enshrined in Article 11 of the Charter.

Moreover, as an additional legal basis, it should be stressed that an informed exercise of European Citizenship Rights, especially of the right to participate in the European elections under art. 22 of the Treaty on the Functioning of the European Union, implies and requires the absence of dominant positions in mass media markets, especially if those holding these dominant positions are politically active.

We therefore ask the European Commission, in line with the request put forward by the European Parliament in several occasions (lastly in its Resolution of March 2011 on the Hungarian Media Law) to present a formal proposal of directive with a view to harmonizing national legislation on media ownership. Such a directive should also confer the power to implement harmonized rules to national regulatory authorities, whose independence from economic as well as political influence should be strongly guaranteed following the model of the Electronic Communications directives.