



Media Board's position paper on the European Commission's Public Consultation on Article 18 of the European Media Freedom Act (EMFA)

Introduction

This Position paper is drafted by the European Board for Media Services (hereinafter referred to as the "Media Board") in response to the European Commission's consultation concerning the implementation of Article 18 of the European Media Freedom Act (hereinafter referred to as "EMFA") which took place between 23 June to 23 July 2025. The purpose of this submission is to provide detailed and constructive feedback on the proposed guidelines relating to the functionality that Very Large Online Platforms (VLOPs) are expected to implement in line with EMFA. The aim of this functionality is to enable media service providers to declare that they meet the conditions outlined in Article 18(1) and thereby access the protections offered by the EMFA.

The provisions of Article 18 EMFA aim to respond to the challenges of online disintermediation by ensuring that journalism adhering to professional standards has a protected space in the online sphere. As the Media Board, we recognize and support the Commission's effort to ensure simplification and legal certainty while also accommodating the operational specificities of VLOPs. This balance is essential to safeguarding media pluralism and freedom within the European Union.

However, to ensure the effective, transparent, and fair implementation of the guidelines, it is critical to build a system that ensures consistency across VLOPs, provides clear instructions to media service providers, includes adequate verification mechanisms, and incorporates meaningful input from civil society, which will minimise the risk of potential abuse of the functionality.

Scope of Article 18 and Definition of Media Services and Media Services Providers

It is important to clarify the scope of Article 18, particularly regarding the types of media entities eligible to benefit from its "preferential treatment". The definition of "media services" under the EMFA is notably broader than the definition contained in the Audiovisual Media Services Directive (AVMSD). As the EMFA's Art. 2 (1) and recitals¹ emphasise, media services include not only traditional broadcasters or audiovisual content providers, but also other types of media, such as the press, and professional journalistic activity.

This broader definition encompasses individuals who exercise journalistic activity in a professional capacity (see also the criteria for the service to be an economic activity²), such as freelancers or journalists who operate their own blog or podcast. Their content exceeds what EMFA considers³ as news, and involves a plurality of current affairs topics such as reviews of books, plays or critical analysis

¹ Recital 9 EMFA

² At the same time the other elements of the definition of the "media service" apply notably the provision of a "service under the article 56 and 57 of the TFEU" that include the need for the service to be of an economic activity.

³ Recital 14 EMFA

of cultural events. This is similar to the list of services regulated by NRAs which encompasses all services that aim to inform, educate and entertain. In today's media landscape, the line between news, commentary, and general interest content is increasingly blurred. What is considered "news" often intersects with other forms of public discourse, making it unfeasible to impose overly rigid categorical boundaries.

In line with the principle of inclusiveness, freelance journalists should be able to avail themselves of Article 18 protections when acting in their professional capacity and providing services of an economic nature. This approach aims to reflect the diversity of the media landscape and to extend the scope of the principles of freedom of expression and freedom of the press, provided they meet the relevant conditions set out in Article 18(1).

On the other hand, broadening of the scope of Article 18 must be limited by the requirement that editorial responsibility is exercised by a human being who upholds journalistic standards⁴, rather than by artificial intelligence. Editorial responsibility implies a conscious human decision-making process for both the shaping, and approving, of content according to given professional standards, AI lacks this capacity⁵. Accordingly, content generated solely or predominantly by AI systems should not benefit from the protections of Article 18, as it does not meet the threshold of professional editorial oversight required by the EMFA, unless the content is subject to subsequent human review or editorial control⁶.

Functionality Design: Prominence, Accessibility, and User-Friendliness

The Commission's proposal for a functionality which is prominent, user-friendly, and easily accessible is necessary for ensuring that media service providers of all sizes and backgrounds can engage with the system effectively. The Media Board welcomes the intention of the Commission to ensure a low administrative burden for media service providers in making and maintaining their declarations.

The design of the functionality should adhere to standardised content requirements and format in order to allow the media to easily file the declarations on different platforms. By ensuring that the same basic requirements and format are adopted across VLOPs, the system will minimize administrative efforts and burdens for media service providers. It could also allow for a more uniform monitoring mechanism, reducing the risk of diverging assessments between VLOPs, as various platforms may interpret the definitions of Art. 2 differently and attribute different weight to the conditions of Art 18(1)(d). The development of these standards should be led primarily by the European Commission's Article 18 EFMA guidelines and could then be discussed and developed in the context of the structured dialogue activities carried out with the Media Board in accordance with Article 19, in order to ensure both consistency and alignment with regulatory objectives. VLOPs should nonetheless allocate sufficient resources to assessing requests and to supporting media service providers in using the functionality properly.

To ensure that the system is truly accessible, the functionality must be available in all official languages of the European Union. This is especially important for smaller or local media service providers that operate in less widely spoken languages and may lack the resources to interact with platforms in major international languages. Contextual guidance, such as embedded tooltips and detailed help sections,

⁴ Article 18(1)(e) EMFA

⁵⁵ See, on this point, the CoE Guidelines on AI and Journalism [Guidelines on the responsible implementation of artificial intelligence \(AI\) systems in journalism - Freedom of Expression](#)

⁶ Article 18(1) (f).

should be available (always in all official languages of the European Union) to support users in navigating the process.

Annual updates and prompts should also be incorporated into the system to ensure that declarations remain updated and that changes in the media provider's status are reflected in a timely manner. Such updates would help to preserve the integrity and the relevance of the declarations over time.

Content of the Questionnaire and Supporting Information

The core of the functionality should be a standardized questionnaire that allows media service providers to indicate their compliance with the criteria set out in Article 18(1). Each element of the questionnaire should be accompanied by a concise explanation of the corresponding requirement. For instance, when requesting evidence of adherence to editorial standards, the interface should clarify what types of documents or references would be acceptable, such as codes of conduct, links to journalistic guidelines, or a document from the competent media councils (e.g. separate, independent and self-regulatory bodies such as press councils).

Media providers should have the option to upload supporting documents in a variety of formats, including PDFs, links, images or other types of documents. Importantly, the absence of supporting documentation must not be grounds for automatic rejection of a declaration. The option to submit further information should remain entirely discretionary. This approach maintains the flexibility necessary for diverse media organisations while also allowing those with well-developed internal policies to demonstrate their credibility more clearly.

Once submitted, these declarations, or at least the resulting lists of applicants, should be made publicly accessible by the VLOPs, except for the applicant's legal name and contact details, including email addresses⁷. This list should be centralised and easily accessible, as its goal is to increase transparency, facilitate public scrutiny, and to help civil society and regulators monitor the status of media organisations operating within the EU's digital sphere. Publishing the list of self-declared media service providers would also allow the community and platform users to become additional watchdogs, flagging discrepancies or abuse. The list should include the declarations which were accepted and those which were not accepted, including the cases for which acceptance was revoked.

As regards the revocation of the declarations' validity, the Media Board suggests that the guidelines should provide additional indications regarding objective criteria and grounds, taking into consideration suggestions on substance which are included in this position paper, inter alia, on the scope of the definition of media services providers and the conditions laid down in Article 18(1)(d).

VLOPs should provide a point of contact for media service providers to seek support during the declaration process

Clarification of the Conditions in Article 18(1) EMFA

Greater legal clarity regarding the interpretation of the various conditions listed in Article 18(1) is essential to enabling consistent implementation of the provision across the Union. In particular, clarity would be welcome regarding the two conditions listed under Article 18(1)(d)—being subject to

⁷ Art. 18(2)

regulatory requirements for editorial responsibility and being overseen by a national authority or adhering to a co-/self-regulatory mechanism— which are stated as alternatives.

The guidelines should also identify which types of co- or self-regulatory mechanisms are relevant in the context of Article 18 (for example, national press councils, European associations, or journalists' professional associations and trade unions which enforce ethical and editorial standards). While an exhaustive list may not be feasible, an illustrative and non-exhaustive list of exemplary bodies would be helpful. This could also present an opportunity to send a strong message in support of fostering and promoting reliable co- or self-regulatory mechanisms.

In the context of addressing reasonable doubts raised by VLOPs regarding compliance with the criteria in Article 18(1)(d), the guidelines should explain that the approach might differ depending on the type of media service provider. Where the entity is a provider of audiovisual and radio media services, the reasonable doubt should be resolved through consultation with the appropriate media regulator. When it comes to the press sector, which is often not subject to regulators but to self-regulation and general liability rules, the EMFA refers to a co-regulatory or self-regulatory mechanism governing editorial standards which are transparent, industry-recognised and widely accepted. Therefore, in case VLOP providers cast doubts about press outlets and journalistic entities, the doubts should be addressed to the relevant press councils or co-/self-regulatory bodies⁸.

In this regard, the Media Board believes that the EMFA provides a strong encouragement to journalists to voluntarily become members of the relevant press council in their Member State, as this would allow the effective verification of the validity of their declarations. While journalists have the right to refrain from joining a press council or regulatory body, they should also understand that such non-affiliation may reasonably preclude them from accessing the benefits afforded by Article 18. The functionality and its associated protections must be grounded in accountability mechanisms, membership in a recognized self-regulatory body is a key component of such accountability.

In Member States where no co or self-regulatory mechanisms, such as a press council, exists, their establishment could be actively encouraged by the media sector. Member States should also create and foster conditions for their development and long-term sustainability. This could, in particular, include support for the development of quality standards for the work of such bodies. The establishment of independent press councils would foster alignment with the EMFA's objectives and improve regulatory coherence across the Union. It would also support journalists across the EU, including freelancers and media service providers only active in the digital sphere, to benefit from the measures of Article 18. The guidelines could also refer to the structured dialogue as an effective forum to further promote media self-regulation in the context of the effective application of Article 18(1).

The guidelines could also clarify that media service providers may refer to publicly available national and EU databases and registers, while also underlining the importance of ensuring that such sources are up to date and comprehensive, in order for the guidelines to remain flexible and adaptable to different national contexts.

As a final point, the Media Board notes with concern the lack of dedicated enforcement mechanisms regarding the application of Article 18. Without enforceability, the credibility and effectiveness of the entire framework may be undermined. We therefore recommend that the Commission's guidelines

⁸ If, instead, the press is subject to oversight by a media regulator, as is the case with the ERC in Portugal, the VLOPSEs' doubt should be addressed to the NRA.

provide some examples of enforcement measures which could be taken by the VLOPs (e.g. suspension or withdrawal of the validity of a media service provider's declaration) or by the Member States.

Role of Civil Society and Fact-Checking Organisations

The inclusion of civil society actors and fact-checking organisations in the oversight process is a welcome development which has the potential to strengthen the credibility and democratic legitimacy of the system. However, this participation must be subject to clear rules and safeguards to ensure that it is both effective and fair, and that it does not excessively overburden the whole mechanism.

Organisations permitted to raise concerns or flag potential non-compliance during the review process of declarations, as per *recital 53* of EMFA, should meet specific eligibility criteria. Criteria should include demonstrable expertise in relevant areas such as media freedom, disinformation analysis, or media literacy; reliance on transparent methodologies; and no previous involvement in cases of unethical or non-independent conduct. An example of such organisations could be the trusted flaggers as set out in Article 22 of the Digital Services Act, if they have demonstrable and relevant expertise.

Flagging by civil society should not result in automatic retraction or suspension of a media provider's declaration. Rather, it should trigger a procedural review by the providers of VLOPs. The flagged issue, the substance of the claim, and the status of the review process (including a dialogue between the media service provider and the VLOP, as outlined in Article 18 (6)), should be made publicly accessible to ensure transparency.

In addition, the guidelines could recommend that particular caution should be paid by VLOP providers to declarations made by users shortly before or during electoral periods, and that heightened cooperation during electoral periods could be encouraged between VLOP providers and national regulatory authorities or bodies or self-/co-regulatory bodies. To make sure that this cooperation is effective, the guidelines could also suggest that during election periods, national regulatory authorities or bodies and self-regulatory bodies keep each other updated about their cooperation with VLOPs in relation to the self-declaration process.

Preventing Abuse and Protecting Democracy

The declaration system must include safeguards to prevent misuse by actors that do not genuinely adhere to standards of editorial independence. In particular, media service providers which are not editorially independent from Member States, third countries or entities controlled or financed by third countries, and/or media service providers which engage systematically in disinformation, information manipulation and interference, should not be allowed to benefit from the protections of Article 18.

In this regard, the guidelines could suggest that issues concerning the protection of democracy are discussed in the meetings held in the context of the structured dialogue as foreseen by Article 19 EMFA.

Role of the Media Board

The Media Board may play a pivotal role in coordinating and overseeing the implementation of the declaration framework, first and foremost through the structured dialogue, as foreseen in Article 19, the

provision of opinions in accordance with Article 18(6), and the role which NRAs have in responding to the reasonable doubts of VLOP providers.

The guidelines could refer to the structured dialogue for targeted exchanges between VLOP and regulatory, co-regulatory, and self-regulatory authorities with the objective of facilitating the development of uniform criteria for acceptance of declarations and of removing administrative burdens for media service providers. For example, by developing information for pre-compiled fields, on the basis of which users can choose whether they declare themselves as a media service provider. The nature of such collaboration may also allow VLOP providers to build a better understanding of what type of supportive documentation media service providers present across various jurisdictions. In practice, this could reduce the discretion of VLOP providers when judging whether there is reasonable doubt as to certain information provided as part of a media service provider's declaration.

Conclusion

The implementation of Article 18 of the EMFA is a landmark opportunity to reinforce media pluralism across the European Union. However, it will only be effective if the underlying mechanisms are transparent, fair and responsive to the real-world needs of both media service providers and online platforms. The timely adoption of these guidelines will facilitate the application of Article 18 in practice, including in cases where NRAs may play a role.

The Media Board believes that the guidelines of the European Commission will provide a very good opportunity to offer detailed and practical guidance on each element of the declaration process, to ensure procedural fairness in cases of dispute, and to empower independent oversight by regulators, self-regulatory bodies and civil society. In doing so, the EU can set a global standard for the responsible, flexible and collaborative governance of digital information ecosystems.

The Media Board remains at the Commission's disposal for any further input or clarification and would welcome the opportunity to participate in the subsequent stages of this consultation process.