



Opinion of the Media Board pursuant to article 21 (4) of the European Media Freedom Act

Amendment of Article 98-vicies sexes of the Italian Electronic Communications Code concerning the ‘interoperability of car radio receivers, consumer radio receivers and equipment [...]’

[March 17, 2026]

CONTEXT OF THE OPINION

The Media Board received a request from ‘OMItaliane’ (‘Onde Medie Italiane Editori Riuniti’) on 11 November 2025, for the Media Board to issue an opinion pursuant to Article 21(4) of the European Media Freedom Act (hereafter, the ‘EMFA’) regarding national measures affecting media service providers.

The complainant, ‘OMItaliane’, is both an association of private operators and broadcasters in the medium wave band and a network operator, authorised to broadcast in medium wave amplitude modulation (AM) on the frequency of 1233 kHz (radio station ‘This is radio!’).

The request concerns the amendment of Article 98-vicies sexes of the Italian Electronic Communications Code, referred to in Legislative Decree 259 of 2003, concerning the ‘interoperability of car radio receivers, consumer radio receivers and equipment [...]’, notified by the Italian Government to the European Commission on 1 October 2025.

NB: The contested measure has been notified by the Italian government to the European Commission according to the procedure set out in Directive (EU) 2015/1535 of 9 September 2015. Following the notification, the Commission issued a detailed opinion on 16 December 2025 challenging the contested measure and prolonging the standstill period until 7 April 2026. Therefore, the Media Board acknowledges that the measure might still be amended by the Italian government, or withdrawn.

SUBJECT OF THE OPINION

The amendment challenged by the complainant extends the obligation to equip vehicles with radio reception equipment, by requiring new vehicles to be capable of receiving radio services broadcast in analogue (FM) and digital terrestrial (DAB+) formats. This requirement would apply as soon as the vehicle is equipped with a device allowing access to the internet and/or the playback of audio content, including modern infotainment systems.

In its request, the complainant invokes Article 21(4) of the EMFA, arguing that the above-mentioned Italian national measure has the effect of discouraging the exercise of freedom of establishment and freedom to provide services in the media sector, to the detriment of media pluralism or the editorial independence of media service providers authorised to operate in the medium wave (AM) band in the internal market.

The complainant reports the following claims:

- The above-mentioned measure would not comply with the principles of technological neutrality and non-discrimination;
- The above-mentioned measure would have a direct impact on the complainant since most radio listening occurs in cars, and the elimination of the medium-wave band and the failure to adopt the DRM digital standard would prevent the complainant from reaching a substantial portion of its audience;
- The potential reduction in the number of radio operators could lead to a decrease in the level of pluralism in the Italian radio market;
- The above-mentioned measure would not be consistent with AGCOM's guidelines on the 'prominence of audiovisual and radio media services of general interest';
- Since the DRM standard operates on the medium-wave band, its exclusion as a digital standard for car receivers could have the side effect of progressively eliminating the medium-wave band from such receivers, even for analogue broadcasts.

LEGAL BASIS

Article 21, paragraph 1 and 4 of the EMFA:

1. Legislative, regulatory or administrative measures taken by a Member State that are liable to affect media pluralism or the editorial independence of media service providers operating in the internal market shall be duly justified and proportionate. Such measures shall be reasoned, transparent, objective and non-discriminatory.

(...)

4. Where a regulatory or administrative measure as referred to in paragraph 1 is likely to significantly affect the operation of media service providers in the internal market, the Board shall, on its own initiative, at the request of the Commission or upon a duly justified and reasoned request of a media service provider that is individually and directly affected by such a measure, draw up an opinion on the measure. Without prejudice to its powers under the Treaties, the Commission may issue its own opinion on the matter. The Board and the Commission shall make their opinions publicly available.

MEDIA BOARD ASSESSMENT

I. ADMISSIBILITY OF THE REQUEST

The request for an opinion pursuant to Article 21(4) of the EMFA is only admissible if the following criteria are cumulatively fulfilled:

❖ **Nature of the measure** (i.e., regulatory or administrative measure):

For the request for an opinion pursuant to Article 21(4) of the EMFA to be admissible, the measure challenged by the complainant must be of a regulatory or administrative nature.

In the present matter, the measure challenged is an amendment of the Italian Electronic Communications Code, referred to in Legislative Decree 259 of 2003.

In the Italian legal framework, any text adopted by Legislative Decree is legislative in nature and constitutes primary law, so any potential amendment to the Electronic Communications Code should be made via a legislative act.

Thus, the measure challenged by the complainant is legislative, and the first admissibility criterion regarding the nature of the contested measure is therefore not fulfilled.

❖ **Measure liable to affect media pluralism and/or editorial independence:**

N.A. given that the first criterion was not fulfilled.

❖ **Measure likely to significantly affect the operation of the MSPs in the internal market:**

N.A. given that the first criterion was not fulfilled.

❖ **Qualification of the plaintiff (Media service provider):**

N.A. given that the first criterion was not fulfilled.

❖ **Measure affects individually or directly a media service provider:**

N.A. given that the first criterion was not fulfilled.

❖ **Duly justified and reasoned request:**

N.A. given that the first criterion was not fulfilled.

CONCLUSION OF THE ASSESSMENT OF THE ADMISSIBILITY: *In light of the above, the request for an opinion of the Media Board submitted pursuant to Article 21(4) of the EMFA is not admissible.*

II. MERIT OF THE REQUEST:

The merit of the request is assessed regarding the following criteria laid down in art. 21(1) of the EMFA, yet only if the admissibility of the request is given.

❖ **Measure is duly justified:**

N.A. given that the request is not admissible.

❖ **Measure is proportionate:**

N.A. given that the request is not admissible.

❖ **Measure is reasoned:**

N.A. given that the request is not admissible.

❖ **Measure is transparent:**

N.A. given that the request is not admissible.

❖ **Measure is objective:**

N.A. given that the request is not admissible.

❖ **Measure is non-discriminatory:**

N.A. given that the request is not admissible.

CONCLUSION OF THE ASSESSMENT OF THE MERIT OF THE REQUEST: *The Media Board did not assess the merit of the request, given that the latter does not fulfil the admissibility criteria stipulated in the EMFA.*

CONCLUSION OF THE MEDIA BOARD OPINION

The Media Board ascertains the request for an opinion by OMItaliane pursuant to Article 21(4) of EMFA regarding the amendment of Article 98-vicies sexies of the Italian Electronic Communications Code concerning the ‘interoperability of car radio receivers, consumer radio receivers and equipment [...]’ not to be admissible because of the nature of the contested measure which is neither regulatory nor administrative but legislative. Therefore, the Media Board is not empowered to evaluate the merit of the measure since the contested measure lies outside of the Media Board’s scope of competency provided for in Article 21, paragraph 4 of the EMFA.

ANNEX – consultations undertaken

Parties concerned:

- Complainant: 'OMItaliane'
- Authority responsible for the measure: Ministry of Enterprises and Made in Italy
- Relevant regulator: AGCOM – Autorità per le Garanzie nelle Comunicazioni

Other relevant experts and stakeholders:

N.A. given the inadmissibility of the request.