

TRANSPARENCY OF MEDIA OWNERSHIP IN EUROPE



A report for the High-Level Group on Media Freedom and Pluralism

This report set out the main findings of a research project which indicates that there is currently insufficient transparency of media ownership in most European countries. A series of recommendations show how to increase public access to information about media ownership as an essential prerequisite for promoting and protecting media pluralism.

FINDINGS

- Research by Access Info Europe in 19 European states (incl. 11 EU members) has found that the legal framework in most countries is insufficient to guarantee transparency of media ownership.
- In only 9 of the 19 countries (including only 4 of the EU member states) can the public find out who the actual owners of the broadcast media are, from information reported to media regulators or to company registers.
- Disclosure to media regulators of beneficial owners of media outlets is not currently required in most of the countries.¹
- There is no unified or standard approach to collecting or requiring disclosure to the public of media ownership data, particularly with regard to print and online media.
- There is a need for clear international standards on transparency of media ownership and on the legal framework required to achieve it. There is currently no clear standard, despite the recognition that transparency is important. Such recommendations as do exist are non-binding and have proved ineffective.

RECOMMENDATIONS

- ▶ Broadcast, print and online media should be required to submit to a national media authority sufficient ownership information to allow identification of the beneficial and ultimate owners of media outlets.
- ▶ National media authorities should collect and make public sufficient information to identify the beneficial and ultimate owners of media outlets.
- ▶ National company registers should collect information on the beneficial and ultimate owners of all companies and make public the contents of the register.
- ▶ All information submitted to national media authorities and company registers should be available in open electronic format, at no cost to the public.
- ▶ The EU should explore a system by which data collected at the national level is compiled and made available to other government regulators and the public, for example through an expansion of the MAVISE database.

1. *Beneficial ownership* is used here in the context of shares held on behalf of another, e.g. through brokerage.

1. MEDIA PLURALISM AND TRANSPARENCY OF OWNERSHIP

One of the many keys to securing media pluralism in Europe is ensuring that there is a wide diversity of media ownership, as a necessary but not sufficient condition for plurality.

In order to monitor, track, and—where necessary and appropriate—take action to promote diversity of media ownership, it is imperative that relevant actors have adequate information about media ownership structures. This requires that data be both collected and made available to relevant oversight bodies (at the national level and/or the European level) and is accessible by academics and public watchdog bodies.

Media ownership affects media output; when citizens do not know who owns or controls the media, their owners—often representing powerful interests—will exercise unaccountable influence. Nevertheless, national and regional initiatives to promote diversity have focused on ownership in the context of preventing media concentrations, largely ignoring the need to promote transparency of media ownership as a precondition for assessing levels of concentration or other dimensions of diversity.

There are exceptions to this. For example, the European Commission’s study on *Indicators for Media Pluralism* (2009) identifies “regulatory safeguards for transparency of ownership and/or control” towards the public and also towards the “relevant authority” as the key indicators of pluralism in this respect.²

This recognition of the need for transparency of media ownership has not been translated into clear international standards. The recommendations from inter-governmental organisations which do exist are non-binding and have not been complied with in most of the countries surveyed in this study. These standards include the 1994 Council of Europe Committee of Ministers Recommendation on Measures to Promote Media Transparency which has had no perceptible effect.³

A more recent text is the 2008 Resolution from the European Parliament, which “[e]ncourages the disclosure of ownership of all media outlets to help achieve greater transparency regarding the aims and background of the broadcaster and publisher.”⁴ This, too, is non-binding; the enactment and implementation of legislation on media ownership transparency is solely at the discretion of member states.

2. Available at http://ec.europa.eu/information_society/media_taskforce/pluralism/study/index_en.htm.

3. See Council of Europe’s 1994 Committee of Ministers Recommendation 94(13) on Measures to Promote Media Transparency at [http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec\(1994\)013&expmem_EN.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec(1994)013&expmem_EN.asp)

4. See European Parliament resolution of 25 September 2008 on concentration and pluralism in the media in the European Union, document P6_TA(2008)0459, at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0459&language=EN>

2. MAPPING TRANSPARENCY OF MEDIA OWNERSHIP

Access Info Europe, in partnership with the Media Program of the Open Society Foundations, recently completed the first systematic study into the legal framework for access to information about the ownership of the media in Europe, surveying 20 countries in the European Union and the European Neighbourhood region.⁵ The research covered three main mechanisms for gathering information on ownership of media outlets and assessed the extent to which this data is available to the public:

1. **Media Regulation:** Media-specific regulations that require media organisations to disclose ownership information to a public body, such as a media authority.
2. **Direct Disclosure:** Media-specific regulations that require media organisations to disclose ownership information directly to the public.
3. **Company Law:** The general legal requirements that may directly or indirectly require media ownership transparency, such as company rules that oblige company shareholdings to be disclosed and the information reported to company registers.

The survey found that in more than half of the countries surveyed, the existing rules on company and media ownership do not permit members of the public to know who the real or beneficial owners of the media are, and in the majority of countries the legal framework fails to ensure public access to information about the owners of print or online media.

The survey also found that in most countries key information about media ownership is not collected, either by media regulators or through disclosures required under company law. This means that media regulators, parliamentarians or other government regulators or oversight bodies do not have access to such information, because it has not been compiled in a place where they can access it. In a number of countries, there are possible sanctions for non-reporting of information to media regulators and company registers but not sanctions for reporting inaccurate information; media regulators are often not empowered or sufficiently resourced to verify what is reported.

The comprehensive survey of the legal framework in each of the 20 countries found that there is no unified or standard approach to collecting or requiring disclosure to the public of media ownership data, particularly with regard to print and online media.

Specifically, Access Info Europe found that:

- ▶ In 9 of the 20 countries it is not possible for the public to find out who the actual owners of the media are—either through media-specific reporting or through company registers.
- ▶ In only 6 out of 20 countries can the public access sufficient information from the media authority to establish who owns the broadcast media; for print and online media this is possible in 2 countries.

5. Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Georgia, Germany, Iceland, Italy, Latvia, Luxembourg, Macedonia, Morocco, the Netherlands, Norway, Romania, Spain, Switzerland, Turkey and the UK.

- ▶ In only 4 countries does the ownership information submitted to a company register allow identification of the owner for all types of company (publicly listed, limited company, etc.) and such requirements to not apply to other owners of media outlets (associations, faiths, etc.);
- ▶ For the broadcast media, beneficial ownership (which is essential to identify those with influence) is only required to be disclosed to the media authority in 6 countries and to the companies register in 4 countries.
- ▶ The print media and online media have a much lower obligation to report ownership information and are just covered by company law in many countries which, as stated above, only reveals ownership of all types of company in 4 countries.

The survey did, however, find some best practice models and examples of how to ensure transparency of media ownership. The most advanced regime is that of Norway, with some other countries delivering transparency in law and practice in one if not all of the areas surveyed, including in some countries transparency of the company register and in others providing public access to all the information collected by the media regulator.

3. Recommendations on Transparency of Media Ownership

On the basis of the findings of the survey conducted by Access Info Europe with the Open Society Media Program, we are submitting to the EU High Level Group on Media Freedom and Media Pluralism the following recommendations for **action at the national level**.

1. **Require (by law) and enable (with resources) national media authorities to collect and make public sufficient information to identify the beneficial and ultimate owners of media outlets**
 - 1.1 **Reporting Ownership:** Broadcast, print and online media⁶ should be required to submit to a national media authority sufficient ownership information to allow identification of the beneficial and ultimate owners of the media outlet. This should be a one-way reporting requirement which in no way implies a requirement to register the media outlet or obtain permission to operate (with the exception of the pre-existing legal framework for audiovisual media). Print and online media should be subject to a notification requirement only. The media authority (or similar public body or department) should be independent of direct government control.
 - 1.2 **Public access:** All information submitted to the media authority and the company register should be available in electronic format at no cost to the public. The database should be available in an open format under an open licence which permits access to the full dataset and re-use of it. Printed extracts or copies of the entire dataset should be made available, with copying and delivery costs only being charged (in line with the standards of the Council of Europe Convention on Access to Official Documents, CETS 205, 2009).

6. The definition of online media should be such that it captures media outlets which define themselves as such but does not require more informal “media” such as organisational websites or blogs to be subject to the reporting obligation.

1.3 **Sanctions:** The media authority (or other relevant public body) should be tasked with overseeing the reporting to obligation. They should be able to demand that media that fail to comply with the law—either by failing to report or by reporting false information—should do so within specified timeframe (perhaps 15 working days). Failure to comply with the demand should lead to proportionate fines (perhaps calculated by GDP—it is essential that the fines are sufficient to ensure accurate and timely reporting).

1.4 **Information to be disclosed to the media authority:** The basic information that should be required from media outlets in order that ownership can be established is:

- Name, address and contact details of media outlet
- Name and contact details of the owner
- Beneficial ownership
- Those with an indirect control or significant interest of a media outlet
- Size of shareholding over 5% threshold
- Interests of owner in other media organisations
- Interests of owner in non-media organisations
- Subsequent changes in ownership (resulting from a merger or acquisition by other entities, etc.)
- Sources of media revenue

2. National Company Registers should collect information on the beneficial owners of all companies and make public the contents of the Register.

Access Info Europe found that disclosure of beneficial owners is not currently required in most of our surveyed countries. There is also currently limited public access to company registers in many European countries. Information is either available upon payment of a fee or only to those who purchase the whole data set (usually large law firms and the like). In order to ensure that civil society organisations, journalists and academics can access the entire database, Access Info Europe supports the recommendations of OpenCorporates.com which argues that the public value of this information is such that every member of the public should have access to it.

2.1 **Enhanced data collection:** Information which companies are obliged to disclose to Company Registers should include disclosure of beneficial ownership as this is key to establishing the real owners of a company. Where necessary, company laws should be amended to require information on beneficial ownership to be disclosed by all companies.

2.2 **Public Access to Company Registers:** The EU's High Level Group on Media Freedom and Pluralism should recommend that the information gathered in company registers is made public, thereby permitting members of the public to track the full chains of ownership of media outlets, including both media and non-media companies.

3. Strengthen the MAVISE Database

The MAVISE database (www.mavise.obs.coe.int) which is part-funded by the European Commission provides good information on ownership of broadcast media across the European Union and is an excellent regional resource.

It has two key weaknesses: 1. It does not identify the natural persons who are the ultimate controlling owners of the media company (and/or its parent company/companies); 2. It only contains information submitted by national authorities and, as our research has shown, in the majority of countries this is insufficient to identify the real owners.

We therefore recommend that the EU's High Level Group on Media Freedom and Pluralism recommends that the European Commission makes further resources available to the MAVISE initiative to allow it to provide financial and technical support to member states to establish the necessary laws/regulations and systems to require the necessary information to be submitted by all media and for this information to be made public at no or minimal administrative cost.

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