

Principle Objections of the Media Coalition to the Draft Law on Public Information and Media

The Media Coalition, consisting of ANEM, NUNS, UNS, NDNV and Local Press, has carefully examined the Draft Law on Public Information and Media. The Media Coalition welcomes the efforts by the competent ministry to round up a comprehensive pool of media regulations and create a favorable legal framework for the development of media.

We believe the Draft Law to be a good baseline. In our view, however, it contains certain ambiguities, too many provisions (over-regulation) and contradictory concepts that restrict media pluralism and freedom of expression instead of furthering them.

The Media Coalition hereby wishes to point to the key shortcomings of this Draft Law:

1) Certain principles from the Law have not been made functional by the relevant norms and have hence remained merely declarative.

2) The provisions on project financing are unclearly set. The criteria for allotting the funds must be objective, measurable, and non-discriminatory, while fully adhering to the rules on state aid control and free market, keeping in mind the commitment of the Public Information System Development Strategy. It is particularly important to foresee, by the means of interim measures, a restriction for publicly owned media.

The criteria for the selection of members of commissions for the allocation of state aid by the means of project financing must be uniform, regardless of the level of government allocating the aid (national, regional or local) and advantage must be given to independent commission members, in order to avoid political pressure on the allocation process.

3) As for provisions concerning the registry, the impression is again one of over-regulation and deviation from the objective of setting up a media registry. Namely, the scope of data about the founder of the media organization and connected parties dramatically surpasses the basic concept of transparency of media ownership. This greatly undermines the principle of proportionality of the goal and the means to achieve that goal, particularly bearing in mind the provisions foreseeing the accessibility of personal data for a wide circle of people (the founder of the media – a natural person, the editor-in-chief, but also for connected parties), which is contrary to the rules of personal data protection and the applicable European standards in this area. The latter particularly if you take into account the fact that the control of the body competent for personal data protection and, accordingly, the enforcement of the relevant law, is not provided for.

4) The part of the Law concerning the correction, retraction and response is over-regulated and it is often impossible to discern the difference as to the approach to these legal institutes. Furthermore, the fact that these funds may be used alternatively and that it is not possible to use all three institutes for one piece of information is not sufficiently emphasized. The latter may lead to journalists refraining

from releasing such information, fearing adverse consequences. We believe this part of the Law should be trimmed and simplified on the basis of the existing practice.

5) It is our opinion that the Draft Law has failed to sufficiently recognize the significance of self-regulation in terms of adherence to the high standards of free journalism, or the audit that must be based on measurable and transparent rules. The fact that a media has willingly subjected itself to the authority of a self-regulatory body and in relation to respecting professional standards, or that it participates willingly in a circulation auditing system, should be the circumstances assessed and weighed separately when awarding a project.

6) When it comes to media concentration, separate rules must be established at the local and regional levels, in view of one of the proclaimed goals of the Strategy concerning the consolidation of the media scene. It is our opinion that the set thresholds may not adequately respond to the challenges faced at the local level. We emphasize that this is a particularly sensitive topic in Serbia, in view of the large number of electronic media.

7) The Draft Law seems to have insufficiently tackled the issue of the position of journalists, especially relative to their labor status, since practice has shown that the general labor law rules have failed to sufficiently protect journalists' employment rights.

8) Legal and technical revision needs to be performed in order to align the terms in the Law. Furthermore, the introduction of a separate article should be considered, which would explain certain terms used in the Law.

The Media Coalition will present concrete objections to the Working Group, as well as during the public discussion.