

TEN RECOMMENDATIONS ON TRANSPARENCY OF MEDIA OWNERSHIP

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These recommendations set out the structure for ensuring transparency of media ownership. They are based on research into the law and practice in 20 countries surveyed by Access Info Europe and the Open Society Program on Independent Journalism.

The public availability of accurate, comprehensive, and up-to-date data on media ownership is an essential component of a democratic media system. It is impossible to take steps to address excessive media concentrations and conflicts of interest without the tools to identify the owners. Public knowledge of owners' identities helps to ensure that abuses of media power can be assessed, publicised, openly debated and even prevented.

The recommendations require that mandatory reporting requirements to ensure transparency of media ownership be put in place in each country and that they apply to broadcast, print and comparable online media. These entities should all be required to submit sufficient information to a national media authority to allow identification of their beneficial and ultimate owners, back to natural persons. This information should be available to the public in an accessible format free of charge and should be published in a regularly updated and centralised database.

The research found that in most countries company law reporting obligations are insufficient to provide a detailed picture of the ownership and influences behind media companies. The reporting requirements set out in these recommendations are an enhanced form of company law reporting. The role envisaged for media authorities is to ensure that this information is collected and is made available to the public.

The aim of the recommendations is not to promote one legal model or structure that should be implemented in all countries but rather to promote an outcome, namely that the public and media authorities are able to find out who owns and controls the media in their countries.

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On Access Info Europe, see <http://www.access-info.org/en/media-transparency>

On the Open Society Program on Independent Journalism, see <http://www.opensocietyfoundations.org/about/programs/independent-journalism>

RECOMMENDATIONS

To ensure that the public knows who really owns and influences media outlets, the legal framework of each country should ensure:

1. **Transparency of ownership of the media** through disclosure to a national media authority and to the public of **essential basic information**, which should include at a minimum:
 - ▶ Name and contact details of the media outlet
 - ▶ Constitutional documents (via a web link to uploaded scans if necessary)
 - ▶ Size of shareholdings over a threshold of 5%
 - ▶ Name and contact details of direct owners with over 5% shareholding
 - ▶ Identity of those with indirect control or a significant interest, over a threshold of 5%
 - ▶ Citizenship/residence status of individuals with over 5% shareholding
 - ▶ Country of domicile of company with over 5% shareholding
 - ▶ Identity of beneficial owners where shares are held on behalf of another, e.g. via brokerage or silent ownership

In addition, in order to identify potential sources of influence over media content, it is essential that media companies be required to publish financial accounts and audit reports prepared in accordance with the highest international standards, and in sufficient detail to identify sources of funding.

Changes in ownership/shareholdings should be reported immediately by the shareholders to the media outlet and within 10 working days by the media outlet to the national media authority.

2. **Information is findable and free:**

- ▶ Ownership information should be clearly signposted and easily accessible on the website of the national media authority and/or a central government portal.
- ▶ Access to ownership information in electronic format should be free of charge. The charge for accessing hard copies of the information should cover only actual delivery costs (e.g. copying costs and postage) and should never be so high as to deter those wishing to obtain the information.
- ▶ The information disclosed under a media-specific law should, on its own, be sufficient to identify ownership in a centralised database, without the need to cross-reference with other registers, for example the national companies register.

3. **Information is regularly updated:** New information should be disclosed to a national media authority and on the media organisation's website:

- ▶ Within 10 working days of commencement of broadcasting/publishing
- ▶ In an annual update
- ▶ Within 10 working days of changes in shareholdings/ownership taking effect

The media authority should update the online register in real time when it updates its own internal database.

- 4. Data is reusable and in open formats:** The national media authority shall ensure that the entire media ownership database is available with no charges that limit reuse and with no restrictions on reuse such as licences or intellectual property provisions.

The media ownership database shall be available wherever possible in an open format, which can be downloaded from the website of the media authority. If there are original documents attached these should be scanned (for example into PDF format), linked to the database, and also be available for downloading.

- 5. Progressive increase in transparency:** Countries which have secured transparency of essential basic information should move towards greater transparency through mandatory disclosure of the following information about owners with over 5% shareholding in media companies:

- ▶ Interests by those owners in other media companies
- ▶ Interests by those owners in non-media companies
- ▶ Positions held by any owner in a political party or employment as a public official
- ▶ Family affiliations (including a definition of “affiliation”) between any owners.

- 6. Transparency of influence:** In order to understand in greater detail not just who owns but also who controls the media, the following information is also required:

- ▶ Senior management, for example directors (of a company), key executive officers, managing editor
- ▶ Details of relative voting weights where these are not equally distributed among shareholders, and minutes of annual general meetings including records of voting.

- 7. Clear and precise legal framework:** Whether the provisions regarding disclosure of media ownership are located in one single law covering print, broadcast and comparable online media or in multiple laws, the reporting processes should not be unduly burdensome for a media outlet and the content of the reporting requirements set out in the different laws should be absolutely clear and not conflict with each other.

Definitions of the categories of media covered by the law should be clear, particularly with regard to print and comparable online media, so as to ensure that media producers are able easily to determine their reporting obligations and to comply with them as required. The definitions should take into account the volume of circulation, to avoid imposing burdensome reporting obligations on very small publications and websites with little reach or influence, and so as not to confuse media ownership with exercise of freedom of expression.

- 8. Oversight by an independent body:** An independent oversight body such as a national media authority which already oversees registration of broadcast media should be mandated and adequately resourced to monitor and ensure compliance with the relevant law(s).
- ▶ The oversight body should be able to sanction media companies for any failure to fulfil the reporting obligations as well as for reporting false information.
 - ▶ Sanctions for non-compliance should be sufficient in the national context to incentivise disclosure, taking into account the range of resources which media companies have, and calculated proportionately.
 - ▶ The appointment, mandate, function and powers of the oversight body should be designed to ensure its independence from government. The laws governing the application of the sanctions should ensure that they cannot be abused for political purposes and that they provide media with effective and rapid appeal mechanisms.
 - ▶ The powers of the media authority with regard to media ownership transparency should be limited to proportionate sanctions for failure to submit correct ownership information in a timely manner. Under no circumstances should the media authority have any power to interfere in editorial content.
- 9. Direct disclosure to the public:** Media should be required to disclose directly to the public the same information as that submitted to the national media authority.
- ▶ Ownership information should be clearly signposted and easily accessible on the website. Details of the web page and links should be prominently displayed or indicated in the organisation's publications or on-screen information systems.

The media authority should also be required to publish this information in a centralised database that is freely accessible to the public.

- ▶ This information should be permanently available online for free and in an open electronic format. Standardised requirements as to the content and layout should be established by law to ensure the information is comprehensible and to facilitate comparability within and between countries.

- 10. Transnational access and comparability:** The European Union and the Council of Europe should complement national transparency of media ownership mechanisms by exploring a system by which data collected at the national level for all three media sectors (broadcast, print and comparable online) would be compiled and made publicly available.