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## **The European Media Pluralism Monitor: Bridging Law, Economics and Media Studies as a First Step towards Risk-Based Regulation in Media Markets**

**Peggy Valcke, Robert Picard, Miklos Sükösd, Beata Klimkiewicz,  
Brankica Petkovic, Cinzia dal Zotto and Robin Kerremans**

This article discusses the Media Pluralism Monitor,<sup>1</sup> a measurement tool which was developed by the authors for the European Commission in the context of the *Independent Study on Indicators for Media Pluralism in the Member States—Towards a Risk-based Approach*, carried out between February 2008 and June 2009.<sup>2</sup> After situating the study against the backdrop of the broader EU media policy context, the article presents the main characteristics of the Monitor and explains its structure. It also addresses some implementation issues and discusses the most important comments and concerns raised by stakeholders and academics. The article argues that the Monitor adopts a novel, multi-disciplinary and holistic approach to media pluralism, by combining, for the first time, indicators drawn from law, economics and social science to identify and measure risks

- <sup>1</sup> This article is based on a working paper presented by the principal author and project leader, Peggy Valcke, at the Workshop on Competition Policy and Regulation in Media Markets (Tilburg University, The Netherlands, 4–5 June 2009) and at the 27th Annual Research Conference of the International Association for Media and Communication Research (IAMCR) (National Autonomous University of Mexico, 21–24 July 2009). The working paper was based on contributions from the key experts and principal investigators on the study team, but has been substantially rewritten and updated by Peggy Valcke, Professor of Media and Communications Law at KU Leuven and Director of the Interdisciplinary Centre for Law & ICT (ICRI), and Robin Kerremans, legal researcher at the ICRI. The other members of the study team were (in alphabetical order): Johan Carton (Ernst & Young Consultancy Belgium), Peggy Excelmans (Ernst & Young Consultancy Belgium), Oliver Fueg (University of Exeter), Mihály Gálik (Corvinus University of Budapest), Sandra Hrvatin (University of Ljubljana), Aleksandra Kuczerawy (ICRI KU Leuven—IBBT), Katrien Lefever (ICRI KU Leuven—IBBT), Laura Ranca (CEU—CMCS), Bruno Stas de Richelle (Ernst & Young Consultancy Belgium), and Artemon Vogl (Corvinus University of Budapest). All websites were last accessed on 31 March 2010.
- <sup>2</sup> The study results, presented in a Final Report, a User Guide, the software for the Media Pluralism Monitor, and preparatory country reports, are available in electronic form from the Commission's website [http://ec.europa.eu/information\\_society/media\\_taskforce/pluralism/study/index\\_en.htm](http://ec.europa.eu/information_society/media_taskforce/pluralism/study/index_en.htm), and in book form via Lulu.com: P Valcke, R Picard, M Sükösd, J Sanders *et al*, *Indicators for Media Pluralism in the Member States—Towards a Risk-Based Approach* (European Commission, 2009): *Volume 1: Final Report*, 179 pp (ISBN 978-1445207698), and *Volume 2: User Guide*, 363 pp (ISBN 978-1445225197).

relating to various aspects of media pluralism, including not only ownership and plurality issues, but also cultural, political and geographic dimensions. The Monitor is a first step in the development of an EU-wide standardised monitoring system for detecting and dealing with societal risks in the area of media pluralism and the first attempt to apply risk analysis to media policy. By bringing together a host of previously disparate concerns to offer a multi-faceted approach to media pluralism, the Monitor has the potential to provide decision-makers with the means to develop a wider and stronger evidentiary basis for defining priorities and actions in this important area.

## 1. BACKGROUND AND CONTEXT

### **(a) EU Policy on Media Pluralism: From Harmonisation (Failure) to Subsidiarity to Monitoring**

Since the late 1980s, when the first Television Without Frontiers Directive was adopted, European media policy has been characterised by a strong tension between the need for harmonisation in certain areas and the subsidiarity principle. For some more culturally and politically sensitive aspects of media regulation, EU Member States have traditionally tried to limit harmonising initiatives by the European legislator, referring to the subsidiarity principle in order to retain maximum powers within the national competence.<sup>3</sup> This has particularly been the case in the area of media pluralism.

Various initiatives and events over the last 15 years at the European level have pointed out that it would be inappropriate to impose strong Community regulation on media pluralism. This was, for instance, the general line of the feedback the European Commission received on its so-called Green Paper on Services of General Interest<sup>4</sup> a few years ago. In this Paper, the Commission launched the debate on a complete review of its policies on services of general interest, such as media. The Green Paper reaffirmed the significant contribution of the internal market and competition rules to the modernisation of and improvements to the quality and efficiency of many public services, to the benefit of Europe's citizens and businesses. They raised the question of the extent to which a general legislative framework should be established at the Community level for

<sup>3</sup> On the tension between the subsidiarity principle and the legal basis for Community intervention in the cultural field, especially the field of media, see R Craufurd Smith, 'Community Intervention in the Cultural Field: Continuity or Change?' in R Craufurd Smith (ed), *Culture and European Union Law* (Oxford University Press, 2004) 19, and J Holmes, 'European Community Law and the Cultural Aspect of Television' in Craufurd Smith, *ibid*, 169.

<sup>4</sup> Commission (EC), 'Green Paper on Services of General Interest' COM (2003) 0270 final, 21 May 2003, [http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!DocNumber&lg=en&type\\_doc=COMfinal&an\\_doc=2003&nu\\_doc=270](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=COMfinal&an_doc=2003&nu_doc=270).

services of general interest, in full respect of the principle of subsidiarity. The European Parliament and the Member States took the view that certain services of general interest should be excluded from the scope of the competition rules, including health, education and social housing, but also services of general interest aimed at maintaining or increasing plurality of information and cultural diversity.<sup>5</sup> Another strong legal marker for this in the Community's *acquis* is Article 21.4 of the Merger Regulation,<sup>6</sup> which specifically recognises plurality of the media as a legitimate interest for Member States to go beyond competition law remedies in order to achieve media policy goals. Above all, there is the lesson of the failed attempt to launch a harmonisation directive on pluralism and media ownership in the mid-1990s.<sup>7</sup> The matter was so divisive that the Commission never formally adopted a proposal, even though a legal base was developed. This demonstrated the need for a balanced and realistic approach that would take into account the specificities of media markets in the various Member States. Finally, the successive enlargements of the European Union, during which Central and Eastern European countries, characterised by relatively young media markets and intense media reforms, have joined, has further diminished the feasibility and appropriateness of a uniform approach to media pluralism.

Nevertheless, the protection of media pluralism has been a recurrent concern of the European Parliament, which has invited the Commission on several occasions since the 1990s to propose concrete measures to safeguard media pluralism. Even as far back as the 1970s, the Parliament was noting the disappearance and consolidation of newspaper titles. During its previous term, the Parliament produced a report on media pluralism, providing an update on the most important political concerns.<sup>8</sup> During the preparatory work on the Audiovisual Media Services Directive,<sup>9</sup> policymakers also raised concerns

<sup>5</sup> Parliament Resolution (EC) A5-0484/2003 of 13 January 2004 on the Green Paper on Services of General Interest.

<sup>6</sup> Council Regulation (EC) 139/2004 of 20 January 2004 on the control of concentrations between undertakings (EC Merger Regulation), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004R0139:EN:HTML>

<sup>7</sup> Commission (EC), 'Green Paper on Pluralism and Media Concentration in the Internal Market: An Assessment of the Need for Community Action' COM (92) 480 final, 23 December 1992. The Green Paper and the subsequent discussions have been described in Lesley Hitchens, 'Media Ownership and Control: A European Approach' (1994) 57 *Modern Law Review* 585; Gillian Doyle, 'Towards a Pan-European Directive? From "Concentrations and Pluralism" to "Media Ownership"' (1998) 1 *Communications Law* 11; Gillian Doyle, 'From "Pluralism" to "Ownership": Europe's Emergent Policy on Media Concentrations Navigates the Doldrums' (1997) 3 *JILT*, [www2.warwick.ac.uk/fac/soc/law/elj/jilt/1997\\_3/doyle](http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1997_3/doyle).

<sup>8</sup> Parliament Report (EC) A6-0303/2008 of 10 July 2008 on concentration and pluralism in the media in the European Union, [www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2008-0303&format=XML&language=EN](http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2008-0303&format=XML&language=EN).

<sup>9</sup> Parliament and Council Directive (EC) 2007/65 amending Council Directive (EC) 89/552 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (AVMS Directive), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:332:0027:01:EN:HTML>.

regarding pluralism. The Directive supports pluralism, notably through Articles 4 and 5, although it is not its main focus. In the consultation process leading to the Directive, a workshop session on media pluralism was organised at the Liverpool Audiovisual Conference.<sup>10</sup> The idea of increased monitoring sprang out of this session, giving birth to the three-step approach on media pluralism in the European Union (EU), announced by Commissioner Viviane Reding and Vice-President Margot Wallström in January 2007.<sup>11</sup>

### **(b) The Commission's Three-Step Approach and the Rationale of Monitoring**

The first step of this approach was the publication on 16 January 2007 of a Commission Staff Working Paper on Media Pluralism in the Member States of the European Union.<sup>12</sup> The working paper provides a concise discussion of the issues raised by media pluralism. The second step consisted of an independent study to develop a system of indicators for monitoring media pluralism (below). As a third step, Commissioners Reding and Wallström announced a communication presenting the monitoring tool developed under step two.

The EC is paying increasing attention to monitoring systems as a solution to the growing need for more transparency and concrete data in a fast developing media landscape. Media concentration advances, old and new players consolidate, and under the influence of new technologies and media uses the structure of media markets is indeed changing drastically. These evolutions not only require increased vigilance but also a new understanding of their impact on media pluralism. There is a strong, political appreciation that the traditional approach to media pluralism based on ownership control, linked to share of voice, will no longer be sufficient. An approach based exclusively on ownership assumes that the industry is static, rather than dynamic. According to some, it is even hard to define the media sector these days, given the arrival of new players such as internet search engines. A profusion of network capacity and the large number of players in the converged space could provide a false sense of security, shielding the emergence of dominant voices in a media landscape that exhibits only the appearance of pluralism. This explains the Commission's current focus on and support for increased monitoring, thereby adopting a broader approach towards assessing media

<sup>10</sup> Liverpool Audiovisual Conference, 'Between Culture and Commerce', 20–22 September 2005, Working Group 5, [http://ec.europa.eu/avpolicy/docs/reg/modernisation/liverpool\\_2005/uk-conference-report-en.pdf](http://ec.europa.eu/avpolicy/docs/reg/modernisation/liverpool_2005/uk-conference-report-en.pdf).

<sup>11</sup> [http://ec.europa.eu/information\\_society/media\\_taskforce/pluralism/index\\_en.htm](http://ec.europa.eu/information_society/media_taskforce/pluralism/index_en.htm).

<sup>12</sup> Commission (EC), 'Media Pluralism in the Member States of the European Union' (Staff Working Paper) SEC (2007) 32, 16 January 2007, [http://ec.europa.eu/information\\_society/media\\_taskforce/doc/pluralism/media\\_pluralism\\_swp\\_en.pdf](http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/media_pluralism_swp_en.pdf).

pluralism. A robust and multi-faceted monitoring system may equip policy makers and regulatory authorities with the tools needed to detect and manage societal risks in this area and provide them with a stronger evidentiary basis to define priorities and actions targeted at improving media pluralism.

Such a system would necessarily have to be based on a multidisciplinary approach, bringing together different disciplines, including legal theory, social media science and economics. In its terms of reference for the study on indicators for media pluralism (above, step two of the three-step approach), the Commission therefore stipulated that the tool would have to cover pertinent legal, socio-cultural and economic factors, combining three sets of indicators: a first set, measuring the presence and effectiveness of policies and legal instruments that support pluralism in Member States; a second set to measure the range of media available to citizens in different Member States in the light of socio-demographic factors, such as geographic location, social class, age and gender, and to define different types of media markets from an end-user perspective; and a third set to assess the range and diversity of media, looking at the supply side and economic performance of the media, such as the number of media companies and concentration and profitability ratios. These indicators, drawn from law, economics and social science, would have to be placed within a risk-based framework. The justification for the choice of a risk-based approach (and not, for instance, a best practice approach) lies in the broader regulatory trend towards 'evidence-based' and 'risk-based' regulation, which fits the European Union's 'better regulation' discourse of recent years. At the stakeholder workshop in June 2009 where the results of the study were presented, the Commission referred to the advantages of risk-based regulation, in particular that it seeks to ensure that regulation is applied only where it is needed. At the same time, it was stressed that the Commission's intention is not to regulate, but to monitor and create the necessary tools for comparison and increased transparency, enabling a more concrete and rationalised debate on media pluralism.

Apparently, a majority in the European Parliament currently also favours this idea. In October 2009, various draft resolutions were introduced in reaction to the commotion in Italy regarding Berlusconi,<sup>13</sup> reiterating concerns regarding media pluralism in various Member States, especially Italy, and urging stronger action on the Commission's part.<sup>14</sup> The joint motion for 'a resolution on freedom of information in Italy and the European

<sup>13</sup> Parliament joint motion for a resolution (EC) RC-B7-0090/2009 on freedom of information in Italy and the European Union, 19 October 2009, [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P7-RC-2009-0090+0+DOC+XML+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P7-RC-2009-0090+0+DOC+XML+V0//EN).

<sup>14</sup> 'The European Parliament ... urges the Commission, as a matter of urgency, to issue a proposal for a directive on media concentration and on the protection of pluralism, with the full involvement of the future Commissioner in charge of fundamental rights, after having previously defined in a communication a set of appropriate indicators for determining levels of information pluralism and independence of public service media, as requested several times by Parliament and as announced by the Commission itself.'

Union' was, however, rejected. Various members of the Parliament, when explaining their negative vote,<sup>15</sup> said that they prefer to move away from 'national games' and underlined the need for a debate on the substance of the problems threatening media pluralism in Europe, for a more fundamental approach to these problems, and for the development of an instrument that offers a structural solution throughout the EU.

The following sections describe the Media Pluralism Monitor (MPM), which resulted from the study carried out between February 2008 and June 2009 on behalf of the Commission by the Interdisciplinary Centre for Law & ICT (ICRI) at the Katholieke Universiteit Leuven, the Center for Media and Communication Studies (CMCS) at the Central European University, and the Media Management and Transformation Centre (MMTC) at Jönköping International Business School, together with a consultancy firm, Ernst & Young Belgium. First, its main underlying features will be presented, showing how these had an impact on the design of the tool; second, the structure of the MPM will be explained; third, some implementation issues regarding the MPM will be addressed; and finally, the most important remarks and comments about the MPM that have so far been received will be tackled.

## 2. MAIN FEATURES OF THE MPM

Before starting to develop the MPM, the study team agreed on a number of characteristics and principles that must be reflected in the final design of the measurement tool.<sup>16</sup> In order to comply with the terms of reference and produce a user-friendly, robust and flexible instrument, the MPM would have to be *neutral*, *comprehensive* but *practicable*, *EU-standardised* and *evolving*. In the previous section, it was mentioned that the tool also had to be risk-based, in the sense that its purpose is to detect potential risks to media pluralism, and not, for instance, best practice. In the following paragraphs, we explain how these characteristics and principles influenced the design of the MPM.

### (a) Neutral

It is important to stress that the MPM is designed as a neutral, diagnostic tool. Its purpose is to facilitate the collection of empirical data on various risks for media pluralism given the particular economic, socio-demographic and legal situation in each Member State. The MPM does not prescribe specific remedies or actions for particular risk profiles. Thus, while it urges the application of the same analytical framework in all Member States

<sup>15</sup> [www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20091021&secondRef=ITEM-004&language=EN&ring=P7-RC-2009-0090#3-158](http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20091021&secondRef=ITEM-004&language=EN&ring=P7-RC-2009-0090#3-158).

<sup>16</sup> The method followed to develop the MPM is described in detail in the Final Report (see above, n 2).

to ensure comparability of the results obtained, it does not set policy responses, nor does it imply a call for harmonisation in this area. Given the far-reaching socio-cultural, economic and political importance of the media for the functioning of European democracies, the sensitive matter of how to protect media pluralism is ultimately left to the discretion of Member States and their authorities who, in defining their nation's risk appetite,<sup>17</sup> remain absolutely free to consider market-based as well as regulatory approaches to diversity.

### (b) Holistic, but Practicable

In response to the criticism that reducing pluralism to single quantitative measurements fails to account for the complexities of the media landscape and substitutes mechanical devices for serious analysis of media power,<sup>18</sup> the MPM takes a holistic approach. It not only measures ownership and concentration, but also monitors other restrictive forces, both related to external pluralism and aspects of internal pluralism. It thereby couples quantitative with qualitative indicators in order to grasp the full complexity of media pluralism<sup>19</sup> and it investigates threats to pluralism using differentiated sets of indicators, combining economic, socio-demographic and legal indicators.<sup>20</sup>

At the same time, the objective was to construct a *user-friendly* and *practicable* tool. This implied a careful selection of indicators that would ultimately be integrated into the MPM in order to avoid over-complexity. This selection was made on the basis of the SMART test, which is commonly used in the design and evaluation of indicators.<sup>21</sup> The test assesses whether indicators are *specific* (ie whether they have a sufficiently precise meaning and a direct link with media pluralism), *measurable* (ie whether they can be expressed in a quantitative or qualitative score), *achievable/attainable* (ie whether data can be obtained at reasonable cost) and *relevant/realistic* (ie whether reliable border values can be defined on which there is broad consensus).<sup>22</sup> Also for reasons of practicability, it

<sup>17</sup> A nation's 'risk appetite' or 'risk tolerance' refers to the amount of risk that one is willing to take on in pursuit of value.

<sup>18</sup> K Howley, 'Diversity, Localism and the Public Interest: The Politics of Assessing Media Performance' (2005) 1 *International Journal of Media and Cultural Politics* 103.

<sup>19</sup> Following the Council of Europe, the MPM adopts a broad definition of media pluralism as the scope for a wide range of social, political and cultural values, opinions, information and interests to find expression through the media. More specifically, it understands by media pluralism the diversity of media supply, use and distribution in relation to (1) ownership and control, (2) media types and genres, (3) political viewpoints, (4) cultural expressions, and (5) local and regional interests.

<sup>20</sup> See above, section 1.b and below, section 3.b.

<sup>21</sup> See eg [www.unescobkk.org/index.php?id=2655](http://www.unescobkk.org/index.php?id=2655) for more information on using and developing indicators in relation to the cultural diversity programming lens.

<sup>22</sup> The 'T' in SMART stands for 'time-bound', ie data can be collected frequently enough to inform the progress and influence the decisions. As the MPM has been designed to provide a snapshot of the national situation at a given moment in time, a detailed assessment of the time principle has not been carried out. Indicators

was decided to use quantitative measurements to the largest possible extent. Where qualitative assessments are required, for instance in the evaluation of the effective implementation of particular regulatory safeguards, the user of the MPM is guided through transparent questionnaires or simple scenarios, enabling him to operate the MPM without major errors. A detailed User Guide has been drafted to enhance practicability.<sup>23</sup>

### **(c) EU-standardised, but Evolving**

A major dilemma that was faced when designing the MPM resulted from the fact that the tool was supposed to be at the same time EU-standardised (to ensure consistency and comparability of results throughout the EU) and sufficiently flexible to take into account national specificities in the Member States. The result is that, as a starting point, the MPM offers a measurement tool that is applicable in an identical manner in all EU Member States, even though these countries may represent different profiles in terms of market size, technological development, presence of minorities, cultural and political traditions, etc. It uses the same set of risks and indicators, and applies in principle the same border values to all Member States.<sup>24</sup>

However, given the important impact of, for instance, the size and wealth of a nation on its media market structures and regulatory possibilities for protecting and promoting media diversity,<sup>25</sup> users of the MPM are offered two mechanisms to account for national specificities. First, the ‘ex-ante profiling’ functionality enables the population size of the country concerned (large versus small)<sup>26</sup> and its GDP per capita (high versus low)<sup>27</sup> to be

that did not pass the SMART-test are called ‘second tier indicators’ in the study and include, for instance, concentration in employment for a given sector (measuring the number of employees in Top4—or alternatively Top8—firms and calculating employment share per owner) and advertising and time use concentration by sector and all media (both of which were left out because the availability of data required to measure the indicator cannot always be granted in some countries). They are described in Chapter 6.5 of the Final Report (see above, n 16).

<sup>23</sup> This User Guide is available from the Commission’s website and also in book form (see above, n 2).

<sup>24</sup> See below, section 3.d, for more details on the border values.

<sup>25</sup> The number of major firms in a country and range of media types are directly related to market size, indicated by the size of population, as well as to the wealth of the market, indicated by GDP/capita. Nations with smaller populations and/or a lower GDP/capita will normally have fewer media firms and a more limited range of media types.

<sup>26</sup> Small nations are those with populations below 20 million. Large nations are those with population of more than 20 million.

<sup>27</sup> The determination of high and low GDP/capita was made using Eurostat 2008 Yearbook data. Those nations above GDP/capita for the EU-27 (23,500 Euro) were considered in the high category and those below are considered in the low category. High GDP/capita nations are: Austria, Belgium, Denmark, Finland, Germany, France, Ireland, Italy, Luxembourg, Netherlands, Sweden, and the United Kingdom. Low GDP/capita nations are: Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, and Spain.

determined before the actual scoring of indicators begins. This will result in an automatic adjustment of border values for a number of (predominantly economic) indicators of risks of concentration and limitations to the range of media types for these nations.<sup>28</sup> Second, other variables affecting the level of media pluralism and which differ from Member State to Member State, such as degrees of heterogeneity among the population in terms of ethnic and linguistic groups, the most popular means of TV reception, or dominant political viewpoints, are taken into account via an ‘ex-post interpretation’ exercise.<sup>29</sup>

Finally, it is important to stress that the MPM has been developed as an evolving and flexible tool that allows for regular updates and adjustments necessitated by, on the one hand, economic and technological evolutions, and, on the other hand, new solutions to normative dilemmas. This implies that, in the future, new risks and indicators can be added to the MPM (for example, in the area of new media, search engines, etc), or old risks and indicators removed from it.

### 3. STRUCTURE OF THE MPM

Following the identification of the MPM’s basic characteristics and principles, the study team also agreed on a common structure to order the various risks and combine the relevant indicators in a single Excel file, embedding them in a risk-based scoring system. The following paragraphs describe how the MPM is structured in six risk domains (*subsection a*), each containing a varying number of risks, and three risk areas (*subsection b*), and how it combines three types of indicators, 166 in total (*subsection c*), measuring them on the basis of three border values (*subsection d*).

#### (a) Risk Domains

The 166 indicators used to assess risks for media pluralism in a Member State are grouped into six *risk domains*: the basic domain; pluralism of media ownership and/or control; pluralism of types and genres; cultural diversity in the media; political pluralism in the media; and diversity of local and regional interests or geographical pluralism. These domains refer to those dimensions of media pluralism that are most commonly accepted as its constitutive elements in policy documents (eg of the Council of Europe) and in the

<sup>28</sup> When a nation is, for instance, designated as being small and with low GDP/capita, the border values of the indicators of concentration and media range threats are increased by one-third (or multiplied by 1.33), thus accounting for the fact that their small size and low GDP/capita would be expected to produce a greater level of concentration and a lower range of media.

<sup>29</sup> See below, section 4.a.

academic literature. The basic domain consists of indicators relating to essential legal and policy safeguards of a general nature; that is, they are not confined to a single aspect of media pluralism.

Within every risk domain, relevant risks were selected by the study team combining traditional methods of risk identification (objectives-based) and risk assessment (educated opinions and literature review) with sector-specific methods.

*(i) Basic Domain*

Threats to media pluralism can result from more general problems in relation to protection of free speech, independent supervision and media literacy. First, it can be noted that freedom of expression and freedom of the press are basic human rights, pursuant to Article 19 of the Universal Declaration of Human Rights and Article 10 of the European Convention on Human Rights. Effective protection of free speech, via statutory, co- and/or self-regulatory measures, is a prerequisite for pluralism and diversity in the media, implying that the public has access to a free media system which, overall, provides balanced, full and varied information. Closely linked to, or rather inherent in, the protection of freedom of expression are the regulatory safeguards for journalistic practice, including criteria for becoming a journalist, editorial independence, and social protection of journalists.<sup>30</sup>

Secondly, the need for independent regulatory and competition authorities overseeing media markets has been stressed in various policy documents. The Council of Europe's Recommendation No R (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector underlines that, given the danger of pressure from various forces or interests on members of regulatory authorities, the rules governing regulatory authorities for the broadcasting sector should be defined so as to protect them against any interference and to guarantee their effective independence. As the print sector has traditionally been left to self-regulate, it is appropriate to pay attention to the existence and independence of self-regulatory bodies, such as Press Councils or Ombudsmen, consisting of external experts and overseeing disputes relating to reporting by the media and journalists.

Thirdly, media literacy can be considered a crucial element as well, since genuine media pluralism implies that a diverse offering is actually consumed by the public.<sup>31</sup> In particular when communication means are changing, it is key that citizens are equipped

<sup>30</sup> UNESCO, 'Press Freedom: Safety of Journalists and Impunity' (Medellin Report) (2007) 14, <http://unesdoc.unesco.org/images/0015/001567/156773e.pdf>.

<sup>31</sup> P Valcke, *Digitale Diversiteit—Convergentie van Media, Telecommunicatie en Mededingingsrecht* (Larcier, 2004) 196ff; P Napoli, 'Deconstructing the Diversity Principle' (1999) 4 *Journal of Communication* 7; P Napoli, 'Rethinking Program Diversity Assessment: An Audience-Centered Approach' (1997) 4 *Journal of Media Economics* 59.

with the necessary skills to locate, evaluate and utilise information in whatever media form it is offered.<sup>32</sup>

Hence, a first risk domain, the basic domain, is composed of legal indicators that assess, first, the existence and effectiveness of a regulatory framework that guarantees freedom of expression; second, regulatory safeguards for independent supervision of media markets; and third, policy measures in the area of media literacy.

*(ii) Pluralism of Media Ownership and Control*

Highly concentrated markets have traditionally been seen as a threat to media diversity. The majority of EU Member States have adopted regulations in the area of media ownership,<sup>33</sup> since limitations on the influence that a single person, company or group may have in one or more media sectors, as well as rules ensuring a sufficient number of diverse media outlets, are generally considered to be important for ensuring a pluralistic, competitive media system, which is expected to produce a wide and diverse range of media content.<sup>34</sup> A second risk domain consequently looks at pluralism of media ownership and control, which refers to the existence of media outlets and platforms owned or controlled by a plurality of independent and autonomous actors. It encompasses a plurality of actors at the level of media production, media supply and media distribution. In order to assess the existence and effectiveness of a regulatory framework and/or of economic measures to prevent undue concentration of ownership and control in the media sector, a number of legal and economic indicators have been developed.

The aim of the *legal indicators* is to assess whether there are regulatory safeguards in place which can prevent the undue concentration of ownership of or control over the media, which is the primary risk in the area of pluralism of ownership and control. Such safeguards may be found both in media legislation and in competition law, and may rely on various criteria (such as number of licences, capital share, audience share, and revenues). They relate either to mono-media concentration in a single media market or to cross-media concentration in various media markets. Safeguards in relation to bottlenecks arising from vertical integration are also looked at, as well as transparency

<sup>32</sup> On the notion of media literacy, and the various skills and abilities that are required in the modern Information Society to receive and participate with media in a responsible and informed manner, see European Association for Viewers Interests (EAVI) *et al*, *Study on Assessment Criteria for Media Literacy Levels in Europe*, Study for the European Commission, Directorate General Information Society and Media, Brussels, October 2009, [http://ec.europa.eu/avpolicy/media\\_literacy/studies/index\\_en.htm](http://ec.europa.eu/avpolicy/media_literacy/studies/index_en.htm) and [www.eavi.eu](http://www.eavi.eu).

<sup>33</sup> For an overview, see P Valcke, 'From Ownership Regulation to Legal Indicators of Media Pluralism: Background, Typologies, and Methods' (2009) 6 *Journal of Media Business Studies* 19.

<sup>34</sup> Council of Europe, Recommendation No R (99) 1 of the Committee of Ministers on Measures to Promote Media Pluralism, 19 January 1999; A Harcourt, *Report for the Group of Specialists on Media Diversity (MC-SMD) on Methodology for the Monitoring of Media Concentration, Pluralism and Diversity* (2008) 257 ff.

measures concerning the public and the relevant authorities. What is measured is whether such safeguards exist and whether they are effectively implemented. The indicators, however, do not prescribe the use of a certain system, nor do they reflect a preference for certain criteria over others. They start from the observation that it is the Member States' prerogative to decide on the appropriate system in the light of the size and specific characteristics of national, regional or local media markets. Hence, the various regulatory systems in place are considered to be 'functional equivalents' in terms of interpreting the indicators.

The *economic indicators* with regard to pluralism of media ownership and control rely on classic economic measures involving competition and market power wielded by individual firms. Market power measures, such as Top4/Top8 analyses and the Herfindahl-Hirschmann Index (HHI), are traditionally used to indicate the degree to which a firm or leading firms will be able to control quantity or price in a market,<sup>35</sup> but efforts have been made to use these as evidence of media concentration and thus diminished pluralism. Although it is acknowledged that significant debates over the measurement of pluralism using market power indicators exist, Top4/Top8 analyses and the HHI are still considered useful and more robust than the alternatives suggested in the United States, such as the FCC's Diversity Index or the Noam Index, which are heavily disputed and not yet widely accepted. Hence, ownership concentration, as well as audience and readership concentration, in the newspaper, radio, television, magazine, internet content provision and book publishing markets, are measured using the four-firm concentration ratio (C4), or alternatively Top8 analysis or the HHI. Concentration of ownership over the different media sectors is measured by looking at the number of sectors in which the top 8 owners are active. Concentration is normally considered to be high when the major 4 owners (top 4) have a market share of above 50 per cent, medium when their market share is between 25 and 50 per cent, and low when it is under 25 per cent.

*(iii) Pluralism of Media Types and Genres*

The third risk domain assesses risks to pluralism of media types and pluralism of media genres. The former refers to the co-existence of media with different mandates and sources of financing, notably commercial, community and public service media, within and across media sectors such as print, television, radio and internet. The latter refers to diversity within media with regard to media functions, including the provision of information, education and entertainment. The absence of or insufficient protection of certain media types and genres; the lack of sufficient market resources to support a wide range of media types; insufficient funding, but also over-funding, of public service media (PSM); as well as the under- or over-representation of PSM in new media have been

<sup>35</sup> RG Picard, *Media Economics: Concepts and Issues* (Sage, 1989).

identified as threats to pluralism of media types and genres. Such threats have been translated into a number of legal, economic and socio-demographic indicators.

The *legal indicators* again aim to assess the existence and the effectiveness of legal and policy measures that aim to foster, in this case, diversity of media types and genres. Examples of such measures are must-carry rules, which aim to preserve the presence on distribution platforms of certain channels considered to offer content of general interest, the events-lists mechanism and rules on short news reporting, which can be seen as safeguards against the disappearance of some media genres (sports in particular) from free-to-air television. Further, rules on the allocation of (adequate, consistent and sufficient) resources to public service media, which, according to a definition recognised by numerous international policy documents,<sup>36</sup> serves as a cornerstone of democracy, are taken into account.

*Economic indicators* in this domain assess the lack of sufficient market resources to support the range of media, which in turn causes a lack of or underrepresentation of certain media types. Consumer and advertising spending on, as well as public financing of, different media determine the sustainability of the medium and therefore the range of media present in the market. Key indicators used to detect risks of under- or over-representation of certain media types are audience parity and financial parity between commercial and public service media, the percentage of GDP per capita required by an individual to obtain TV or radio reception, to subscribe to a newspaper, magazine or internet service, as well as the ratio of consumers' and advertisers' spending on different media per capita compared to the GDP per capita. The main indicators for pluralism of media genres are the ratio of news/public affairs, educational and entertainment programming on the different media.

*Socio-demographic indicators* looking at the proportion of employees dedicated to new media and the amount of financing invested in new media complement the legal and economic perspective when measuring, for instance, the absence or under-representation of PSM in new media. The proportion of online media offering space for publicly available comments and complaints is used as an indicator to measure the risk of online media paying insufficient attention to public participation.

#### *(iv) Political Pluralism in the Media*

The way in which political representation and the political process is developed in democratic societies, and the role that the media and journalism play in shaping political communication, depend on various circumstances, including political traditions. Still,

<sup>36</sup> Council of Europe, Recommendation No R (96) 10 on the Guarantee of the Independence of Public Service Broadcasting, 11 September 1996; Council of Europe, Recommendation CM/Rec (2007) 3 on the Remit of Public Service Media in the Information Society, 31 January 2007; UNESCO, *Media Development Indicators: A Framework for Assessing Media Development* (UNESCO International Programme for the Development of Communication, 2008), <http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>.

the role of the media in making politics (and society) visible, and in providing information, analysis, fora for debate and shared democratic culture, is beyond dispute.<sup>37</sup> Taking that into account, the domain of political pluralism in the media examines a complex set of structural circumstances regarding access and control, but also underlines dynamic components embedded in media discourses, journalism practices and struggles for independence.

According to the working definition in the study, political pluralism in the media is described as referring to fair and diverse representation of and expression by various political and ideological groups, including minority viewpoints and interests, in the media. This definition is thus twofold and includes both active and passive access by political groups to the media: first, it encompasses the capacity and potential of all social segments, with their likely diverse political/ideological views and interests,<sup>38</sup> to address/reach the public by means of media (whether owned by them, affiliated to them, or owned by third parties); secondly, it designates the spectrum of political and ideological viewpoints, opinions and interests covered by and represented in the media. The indicators developed in this domain view and assess political pluralism from various perspectives: both internally (content) and externally (ownership), from both the supply side and the user's side.

A first risk, that of political bias in the media, is indicated by excessive or exclusive representation or promotion of the political ideas and interests of the governing party (parties) in the media, by positive/negative propagandistic coverage of selected political actors, or by a lack of investigative reporting disclosing hidden actions of various political actors or groups. Insufficient regulatory safeguards for fair and accurate political reporting in the media, for reacting to misrepresentation (through right-of-reply or complaints mechanisms) and for the fair representation of the various political groups in board or advisory functions are also considered relevant (legal) indicators.<sup>39</sup>

<sup>37</sup> P Dahlgren, *Media and Political Engagement : Citizens, Communication, and Democracy* (Cambridge University Press, 2008).

<sup>38</sup> Within the scope of this definition of political pluralism, 'social segment' is to be understood beyond what is included in the cultural pluralism aspects of social features. Thus, 'social segments' include social groups with shared social characteristics such as class, age etc which are not relevant for the cultural pluralism dimension but form the basis for the creation of specific political interests, engagement and organisation (for instance trade unions, youth organisations etc).

<sup>39</sup> It has been recognised that the risk of political bias can be mitigated through both behavioural remedies (prescribing, for instance, fair, balanced and impartial political reporting) and structural safeguards (such as the fair representation of the various political groups in management or board functions of media companies or media councils). In its Recommendation (2007) 2 on Media Pluralism and Diversity of Media Content of 31 January 2007, the Council of Europe recommended that Member States encourage the media to supply the public with a diversity of media content capable of promoting critical debate and an increasingly broad democratic participation of persons belonging to all communities and generations. However, the Recommendation, by way of disclaimer, stated that they should do so while respecting the principle of editorial independence. Hence, in adopting statutory measures, a careful balance has to be struck between stimulating political pluralism and respecting the editorial independence of media outlets.

Concerns about political pluralism increase during periods of electoral campaigning.<sup>40</sup> Misrepresentation in, or lack of access to, the media preceding the moment at which political power is redistributed is likely to have a very important impact. This explains the identification of a separate risk of ‘political bias in the media during election periods’, measured through socio-demographic and legal indicators looking at the level of successful complaints by citizens or political actors, impartiality obligations for public broadcasters, rules on political advertising, and fair access to airtime on PSM.

Political affiliation of media owners is considered a relevant factor in the assessment of media pluralism, and justifies a separate risk of excessive politicisation of media ownership/control. This risk is measured by looking not only at the domination of one or more media owner(s) affiliated to one political group, but also at excessive state ownership in the media and lack of transparency of data on the political affiliations of media owners. Discrimination in the distribution of state advertisements is also included as a socio-demographic indicator for this risk, besides a number of legal indicators looking at regulatory safeguards for the separation of political and media power (for instance, rules obliging broadcasters to be structurally and/or financially independent of political parties).

Although the previous risks are strongly intertwined with insufficient editorial independence, the latter has also been identified as a separate risk, measured through a number of legal indicators looking at relevant regulatory safeguards in print media, linear radio and television broadcasting and on-demand audiovisual media services. Socio-demographic indicators of this risk relate to the ability of media professionals to adhere to professional standards and values with regard to political reporting in the media, and touch upon questions such as: Do representative professional associations exist to negotiate labour relations and mechanisms for the exercise of editorial independence between media employers and media professionals? Are there excessive conflicts between editorial staff and media owners due to attempts at political instrumentalisation of the media?

Special attention is paid to the level of independence of PSM, considering appointment procedures and composition of their governing bodies, financing mechanisms, and procedures for dismissal of key editorial and management personnel (from both a socio-demographic and a legal perspective). The lack of independence of news agencies and political affiliation of distribution networks for print, radio and television have also been included as relevant risks in this domain.

Finally, the level of citizen activity in online media and their impact on the political debate is also looked at, since citizens and citizens’ groups, their opportunities and competences for informed political engagement and participation, have received growing

<sup>40</sup> Council of Europe, Recommendation CM/Rec (2007) 15 on Measures concerning Media Coverage of Election Campaigns (and Explanatory Memorandum CM (2007) 155 add), 7 November 2007.

attention in recent debates about media pluralism, especially those exploring the importance of media literacy and the role of the internet in politics and democracy.

(v) *Cultural Pluralism in the Media*

The study defines cultural media pluralism as referring to fair and diverse representation of and expression by the various cultural, linguistic, religious, ethnic groups, disabled people and women in the media (ie, passive and active access of these various groups to the media). It comprises plurality and a variety of themes and voices brought to the media, socialisation through multiple forms of media access, and participation and representation of diverse values, viewpoints and roles, in which media users belonging to various communities can recognise themselves.

Cultural pluralism in the media is a highly complex concept with many dimensions; consequently, various risks have been identified within this domain, all measured using a number of indicators. Cultural pluralism can be conceived and interpreted in a socio-demographic sense to refer to proportional representation of different communities in the media (reflective dimension). A policy or normative dimension would indicate the level of public recognition and support for different cultural communities to maintain and express their identities through the media and communication services, with an emphasis on diversity as integration (whereby mutual interaction between the diverse cultures in media is promoted) or diversity as distinctiveness (whereby preservation of the distinctive character of particular cultures in the media is the main goal).

When applying the concept of cultural pluralism to the media, different levels of the media environment bear significance. These levels encompass the system as a whole, individual media organisations, content and services, human resources and professional practices, and patterns of use.

The formulation of indicators with regard to *content and services* is guided by two conceptual differences. One approach emphasises that cultural diversity is a key value shared by all Europeans, nurturing a European awareness and a feeling of collective belonging, intrinsically and conditionally linked to the progress of the Union.<sup>41</sup> Here, cultural diversity is understood largely in terms of variety of national cultures and functions as a European cultural projection—as an effort to place recognisable images and representations of European culture (through the promotion of European works, co-productions, works made by independent producers and national production) in the global sphere. The second approach stresses the sense of a national, regional, ethnic, linguistic and religious identity, while the main focus gravitates toward not only ‘cultural

<sup>41</sup> UK Department for Culture, Media and Sport, *Liverpool Audiovisual Conference: Between Culture and Commerce*, 20–22 September 2005.

canons' but also the lifestyles, values and languages of specific social groups and their socio-cultural heritage,<sup>42</sup> including minorities, women and disabled people.

The extent of accommodation of cultural pluralism in media services and practices depends on the *shape and structure of a media environment as a whole* in a given society, and in particular on weightings and relations among its key functional elements: private/public/community media; mainstream/minority media; generalist/culturally specific media. Minority and community media play an especially important role in this constellation, because they underpin cultural alternatives which media diversity is supposed to deliver. The use of minority and community media potential in this respect, however, depends heavily on government policies of regulation, support measures and control.

PSM are often singled out from other media outlets in their normative task to ensure the promulgation of impartial, comprehensive and quality information contributing to the formation of well-informed citizens, embracing diverse cultural communities and ways of identification.<sup>43</sup> This is translated into programming obligations for PSM in most European countries that frequently require the transmission of a specific proportion of culture-related programmes, promotion of local culture and works, and often broadcasting of programmes representing all the regions and minority cultures in a given country. Moreover, internal pluralism is reflected in the PSM's normative attempt to meet audiences' needs as 'complete human beings',<sup>44</sup> offering a full range of services generating different collective identities (including membership of different social and cultural groups, and minorities).

At the level of *human resources*, there is general agreement that a workforce that more accurately reflects the make-up of a society inevitably produces richer and more relevant output, which, in turn, makes media services more compelling and attracts a wider audience.<sup>45</sup> A great variety of measures have been taken in numerous EU countries to promote cultural diversity in the workplace (including media organisations). Yet the scope of such projects is still limited and their success is ambivalent or not easily accountable due to a lack of systematic evaluation schemes.<sup>46</sup> Most diversity practices are based on diversity monitoring—a systematic collection of data on the ethnic, national and gender composition of human resources in order to ensure fair representation in a workplace of persons from diverse cultural and social backgrounds.

<sup>42</sup> T Ader, 'Cultural and Regional Remits in Broadcasting' in *IRIS Plus: Legal Observations of the European Audiovisual Observatory* (IRIS, 2006).

<sup>43</sup> W Rumphorst, 'The Requirements for the Independence of Public Service Television', paper presented at the EBU-MTV conference 'From Secret Service to Public Service', 3 November 2006.

<sup>44</sup> K Jakubowicz, 'Public Service Broadcasting: The Beginning of the End, or a New Beginning?' presentation at the EBU-MTV conference 'From Secret Service to Public Service', 3 November 2006.

<sup>45</sup> A Millwood (ed), *Multicultural Broadcasting: Concept and Reality* (BBC and others, 2002).

<sup>46</sup> Berliner Institut für Vergleichende Sozialforschung, *Cultural Diversity and Mainstreaming in Employment*, study commissioned by the European Monitoring Centre on Racism and Xenophobia (EUMC), 2005.

With regard to *accessibility and use*, the traditional concept of media pluralism has recently been challenged by the reconfiguration of media systems resulting from the impact of the digitisation, convergence and multiplication of media platforms and services. In this new and very dynamic context, although there is potential for full access to all content across multiple platforms, that may not be achieved without cultural media pluralism, which depends on individual users and their ability to access and interact with the media services according to their cultural interests and needs.

All these dimensions of cultural pluralism are reflected in 10 different risks, ranging from insufficient media representation of European, national or world cultures and insufficient proportion of independent and in-house production, through the under- or over-representation of particular cultural and social groups in the media (either in the mainstream media or through so-called minority and community media), to limited accessibility to the media by disabled people. These risks are measured through a number of legal, economic and socio-demographic indicators.

(vi) *Geographical Pluralism in the Media*

The last domain covers geographical media pluralism, which refers to fair and proportional representation of and expression by local and regional communities in the media (ie passive and active access by these communities to the media). It comprises geographical (local, regional) plurality and variety of themes and voices brought to the media, socialisation through multiple forms of interactions, and representation of local and regional values and viewpoints. Geographical pluralism may be interpreted through the spatial dimension (media content is produced and distributed within a local and regional community) or the social dimension (media content and services address the unique needs and interests of local and regional communities).<sup>47</sup> A prominent role of regional media, and the regional press in particular, in preserving and fostering media pluralism has been recognised in numerous scholarly works.<sup>48</sup> Rich and well-developed regional media may compensate for a lack of external diversity within highly concentrated national markets.

Just like cultural pluralism, geographical pluralism can be assessed at the macro or the system level (the national media system as whole and comparatively across the EU), the content level, the PSM-provision level, and the human resources level, which implies the combination of different relevant sets of risk indicators. Interactions which develop between various criteria should be evaluated carefully in the geographical context of each

<sup>47</sup> P Napoli (ed), *Media Diversity and Localism: Meaning and Metrics* (LEA Publishers, 2007).

<sup>48</sup> N Drok, *Local and Regional Journalism in Europe* (European Journalism Training Association, 1998); D Alger, *Megamedia: How Giant Corporations Dominate Mass Media, Distort Competition, and Endanger Democracy* (Rowman and Littlefield, 1998); D Hallin and P Mancini, *Comparing Media Systems: Three Models of Media and Politics* (Cambridge University Press, 2004).

country, including consideration of such factors as population size, density of settlement, proportion of urban population, population size of a capital city, Gross National Product per inhabitant, and administration arrangements. A high degree of or growing centralisation of a particular media system might result from the significant concentration of the population in a capital agglomeration. The relative strength of the regional and local media might also be affected by a decentralised administrative structure or subsidy system for regional and local media.

At the *system level*, the relative strength and importance of local and regional media is assessed through the degree of centralisation of the national media system, looking at, for instance, combined ownership of regional/local media and national media outlets; the presence of competing media in local and regional markets (eg ratio of number of cities with their own newspapers or with their own radio and television stations to the total number of cities); or the proportion of regional and local newspapers to national newspapers. Financial resources, investment levels, estimated reach and audience share, access to frequencies and distribution systems, and ownership patterns (private, state, local administration, media staff, NGO, church etc) are translated into relevant legal, economic and socio-demographic indicators that are used to measure the risk of a failing system of regional and local media.

At the *content level*, geographical pluralism refers to proportional and fair media representation of local and regional communities, thereby bringing different perspectives and backgrounds into the public debate at the local and regional level. The risk of absent or insufficient media representation of local and regional communities in national media might result from the absence of either locally oriented or locally produced content. Most European states place heavier obligations on PSM than they do on commercial stations with regard to the promotion of localism and regionalism. PSM in most European countries are obliged to transmit a specific proportion of programmes that relate to the promotion of local culture and works or that are relevant to all the regions in a given country. This explains the inclusion of a separate indicator looking at regulatory safeguards for locally oriented and locally produced content on PSM channels and services.

The *human resources* composition, especially the balance of journalists and media executives based in local communities, as well as the organisational structure of a particular media outlet, indicates the extent to which geographically varied experiences and interests are reflected in media performance and modes of production (hence, whether there is a threat to geographical pluralism from this perspective).

Two other risks identified in the domain of geographical pluralism are the dominance of a limited number of information sources for local issues (measured through news source preferences of audiences regarding local issues) and insufficient access to media and distribution systems due to geographic factors (assessed through factors or policy

and regulatory measures relating to universal coverage of PSM, availability of broadband networks in rural areas and the distribution of newspapers in remote areas).

**a. Three Types of Indicators**

The various risks identified in the six risk domains are measured through three types of indicators, as was mentioned above: economic indicators, socio-demographic indicators, and legal indicators. According to the nature of the risk, it is analysed through one, two or all three of these types of indicators.

*Economic indicators* assess, for instance, the number of media companies in a particular Member State (or within a linguistic region within a Member State), the number of newspapers and magazines per head of population, and comparable indicators in relation to electronic media, together with concentration ratios or other relevant indicators that would convey an understanding of the economic health of the sector, including profitability.

*Socio-demographic indicators* look at the range of media available to citizens in different Member States and the socio-demographic factors that have an impact on that range (including, for instance, geographic factors or the existence of professional associations of media workers/journalists).

*Legal indicators* examine the legal and policy context, checking not only the presence but also the effective implementation of policies and regulatory instruments that promote media pluralism; these include a wide range of measures, going beyond the scope of ownership restrictions and ranging from state regulations and state policy measures relating to co-regulation to self-regulatory instruments, such as ethical codes or internal charters.

**b. Three Risk Areas**

In order to present a complete picture of the situation, due care has been taken in the selection and formulation of indicators to ensure that three different areas corresponding with the major elements of the media value chain are covered: supply, distribution, and use. The large majority of the indicators (134) look at the *supply* side, ie the structures, processes and outcomes of the production and packaging of content for various media types. Twenty-one indicators assess *distribution* systems, ie any mechanism, means, network used for distributing media content to the public, such as—in the case of print media—individual distribution systems, retail points, postal services, or—in the case of electronic media—electronic communications networks, services and associated facilities. A further 11 indicators refer to the *use* side, ie to citizens' ability and skill in accessing and actually consuming or actively using media. Hence, this area includes the notion of accessibility to the media by all segments of society and looks at issues such as media literacy and digital skills, the availability of subtitling, and audio-description services.

### ***c. Three Border Values***

For each individual indicator, border values have been defined. These border values are measurement units and are expressed quantitatively (numbers, percentages, fractions etc) or qualitatively (assessments). Based on an analysis of national and European policy documents and academic literature, in order to determine what are commonly perceived as positive or negative situations for media pluralism, border values have been divided into three ranges or zones, reflecting high risk, moderate risk and low risk:

- A *high risk* (associated with the colour red in the MPM) means that threats to media pluralism occur and immediate actions or measures are required.
- A *moderate risk* (associated with the colour orange in the MPM) means that immediate follow-up is necessary, and actions or measures are possibly required.
- A *low risk* (associated with the colour green in the MPM) equates to the ‘safe zone’. No immediate follow-up is required, and no immediate action is required.

## 4. IMPLEMENTING THE MPM

### **(a) Interpretation of Results**

The first step in implementing the MPM consists of scoring the different indicators by filling out the Excel file with the help of the User Guide. Once this step has been completed, the results have to be interpreted with great care. As stressed above, the MPM is a diagnostic tool; consequently, any interpretation by users should consider additional societal concerns and factors. In section 2.c it was explained how the MPM, as a standardised monitoring tool, should in principle be applied in an identical manner in all EU Member States, with the same set of risks and indicators, and the same border values. Two mechanisms of ‘ex-ante profiling’ and ‘ex-post interpretation of results’ are offered to compensate for national specificities. The former exercise was discussed in section 2.c; for the latter, the user can rely on a number of interpretation guidelines, described in the User Guide, which will be summarised in the following paragraphs.

#### *(i) Interaction between Risks and Indicators*

When interpreting the results, first the interaction between a particular indicator and the other indicators for the same risk has to be taken into account. Likewise, users of the MPM have to consider the relation between a particular risk and other risks within the same risk domain and other risk domains. For example, in the domain of cultural pluralism in the media, substitutability and complementarity of indicators must be

carefully considered. Negative results for indicators looking at the level of the national media system as a whole (for instance, relating to the presence of autonomous community or minority media) may be compensated by positive results for culturally diversified media content and services offered via mainstream media or PSM, or for workforce indicators.

*(ii) Interaction between Indicator Types*

Secondly, the indicator type should be considered carefully before drawing conclusions from negative (red) scores for individual indicators. This is especially relevant for the *legal* indicators, which must always be considered in conjunction with the others. The absence or non-effectiveness of regulatory safeguards may be more problematic due to the presence of other risks arising from economic and socio-demographic factors. Similarly a positive economic and socio-demographic environment may counterbalance a red score in the legal and regulatory context. A negative 'legal' score should therefore not automatically imply the need for new regulatory interventions. Drawing such a conclusion prematurely in a situation where the economic and/or socio-demographic context is not problematic from the perspective of media pluralism (indicated by a majority of positive or green scores for the corresponding indicators) may lead to over-regulation, and runs counter of the idea of risk-based regulation underpinning the MPM.

*(iii) Country Profiles*

Thirdly, the User Guide lists a number of country profiles, which describe common characteristics of certain countries on the basis of specific variables, such as the size of media markets, the life cycle of media markets, the proportion of the population belonging to minorities, the separation of political and media power, the concentration of population in urban areas, the purchasing power of a country's population, and the predominant means of television reception.<sup>49</sup> Hence, examples of such profiles are: small versus large media markets; developing versus mature media markets and regulatory frameworks; countries with small versus large proportion of population belonging to an ethnic or national minority; countries with/without the tradition of political parallelism and partisan media;<sup>50</sup> countries with high versus low population density in urban areas; countries with low versus high purchasing power of residents; and countries where terrestrial TV reception dominates versus 'cable' or 'multi-platform countries'.

<sup>49</sup> This factor is important in terms of interpreting correctly the results for indicators which look at means of distribution. A negative score for an indicator focusing on one platform only (usually terrestrial reception) should be interpreted in the light of the availability of alternative platforms, like satellite or ADSL.

<sup>50</sup> Cf the 'polarized pluralist' model of democratic media systems development in Hallin and Mancini (n 48).

These profiles enable users to frame the results within the broader social, economic and political context of their country, and enable comparisons to be drawn with countries sharing the same profile. They call attention to important, in some cases problematic, areas and measures that can increase or decrease the relevance of those areas. Profiles may also offer analytical tools to differentiate between critical and non-critical needs in order to counterbalance high risks for pluralism.

## **(b) Organisational Issues regarding Implementation**

### *(i) Potential Users and the Role of Stakeholders*

The MPM is a tool in the public domain and is open for implementation by a wide range of users. The study recommends, however, that implementation is undertaken by a credible entity, in a transparent manner, and in consultation with the various stakeholders. Implementation should ideally be achieved through the combined effort of multiple stakeholders, relying for instance on input from regulatory bodies, market actors, NGOs and academics.

In the process of implementation, major tasks include ensuring access to databases that have been built by national regulatory agencies, international organisations and academic research centres; systematic data collection; the accumulation of new data in original research; processing data into the MPM; and the interpretation of results in national case studies as well as European, regional and profile-based comparative perspectives. In organisational terms, the need for different types of expertise may be met with the establishment of expert panels. Such panels should include experts who are familiar with specific aspects of media pluralism across Europe (in the legal, socio-demographic and economic areas) as well as national experts who can access national data sources and conduct research in the respective national languages.

### *(ii) Schedule of Implementation and Update*

The study also suggests regular, biennial implementation of the MPM. Within a period of two years, data could be systematically collected, the trends in media pluralism and related risks could be identified, and a proper time period could be secured for substantial discussion of results. In terms of the time required for data collection, a realistic estimate is that for a first implementation round, data can be collected and national reports produced in a period ranging between six and ten months. For subsequent rounds of implementation, the period required for data collection and production of national reports will be significantly less (estimated at between four and six months). Where new data must be produced, the timeframe may have to be adjusted in line with the special requirements that this imposes.

To keep up with trends in technological, market, social or policy developments, the MPM should be reviewed and updated regularly, as was mentioned in section 2.c. This might entail review of all or some indicators, as well as research methodologies and related data sources. Technological or market developments may also necessitate the inclusion of new indicators in the MPM (to the extent that appropriate and reliable methods are available). This may be especially important in the area of new media, where technological breakthroughs in hardware and software, new media genres, markets and business models, as well as novel modes of social communication, lead to radical changes in media use and restructuring of audiences. In terms of organisation, the revision and updating of the MPM should be conducted in a transparent way, by a panel of independent experts representing various areas of expertise, disciplines and regions in the EU, in cooperation with national experts and representatives of media regulators.

## 5. COMMENTS

The last section of our article discusses the major comments that were received during the stakeholder workshop in Brussels in June 2009, where the results of the study were presented, and via written comments during a public consultation period.

### **(a) Concerns about Misuse of the MPM**

At the stakeholder workshop, reactions to the MPM were mixed, ranging from very positive and supportive<sup>51</sup> to quite hostile (in one case the MPM was dubbed a ‘monster’). Strong reactions of disapproval, however, systematically related to use of the MPM, rather than to the quality of the study. While the latter was not really brought into question, several stakeholders had strong reservations about how the study would be used and for what purposes. There were major concerns over the risk of misuse of the monitor, in particular to justify more regulation at national or EU level and/or to check on content, which in turn could affect the freedom of expression of journalists. The study was also blamed for trying to overcome the lack of a legal basis justifying any EC regulatory initiative on pluralism by proposing a non-binding, neutral and objective monitoring mechanism.

In response to these comments, it can be stressed again that the objective of the study and the MPM was to develop a measurement tool, enabling a diagnosis of risks to media pluralism in various domains and areas, but not to prescribe specific remedies or actions. The need for more regulation cannot automatically be derived from the reported risk.

<sup>51</sup> See eg M Thompson, ‘The European Commission takes a Bold Step’, [www.mediapolicy.org/the-european-commission-takes-a-bold-step](http://www.mediapolicy.org/the-european-commission-takes-a-bold-step).

The SMART evidence base needed to run the monitor is adequate to highlight risks and focus resources for further monitoring and investigation, but insufficient for regulation. The monitor is only a tool for systematic data gathering on media pluralism and for enhanced transparency. As underlined in section 4.a, results should be interpreted with caution and the risk outcomes should be considered as a whole, always interpreting scores for individual indicators in the light of the scores relating to the other indicators—elevating some domains or indicators or diminishing others would skew the assessment of the reported risks.

Implementation of the MPM can generate substantial knowledge that will help to rationalise the debate on media pluralism and will benefit multiple stakeholders. Not only policy makers, but also the industry itself should gain from the use of the MPM, since the management of reported risks can be a combined effort and possible actions can take various forms. Policy makers can opt for support measures in certain areas, or individual media companies can adjust their offers or strategies. Moreover, the arguments underpinning the fear of over-regulation also work in the opposite direction: the information obtained following implementation of the MPM may also lead to the identification of redundant regulation and hence be used to review and/or reduce burdensome regulation.

Whereas the MPM intends to offer a standardised approach for data collection, risk identification and monitoring, it clearly has no such ambitions when it comes to risk management. The MPM itself does not call for a particular policy approach. Neither should it be interpreted as a call for harmonisation of the policies in the area.

### **(b) Complexity of the Media Pluralism Monitor**

Various stakeholders criticised the complexity of the MPM and questioned the need for such a high number of areas and indicators. They called for simplification and suggested focusing only on the most relevant issues and indicators—which in the view of some ought to be situated in the domain of political pluralism. Other observers, however, stressed the importance of looking at the various aspects relating to media pluralism and valued the holistic approach of the monitor. Some even suggested introducing additional indicators that had not been introduced because of a lack of consensus in the academic literature (eg foreign ownership or vertical integration).

It can be noted that the MPM categorises all indicators under six risk domains; so the monitor ultimately looks only into six different dimensions of media pluralism, which is a manageable number. In mature democracies, media pluralism encompasses political, cultural, geographical, structural and content-related dimensions; therefore a rigorous assessment of media pluralism should scrutinise these different dimensions. In selecting the relevant indicators, the aspiration was to strike a balance between rigour and usability. Limiting the exercise to a smaller number of risk domains (only ownership, or only

political pluralism, for instance), or assessing these through a smaller number of indicators would run counter to the objective of developing a comprehensive tool and would lead to oversimplification.

### **(c) Relevance of Particular Indicators**

The relevance of specific indicators was questioned, such as the ones relating to human resources in the media sector, editorial independence, concentration in book publishing, investigative reporting, and those relating to aspects that are already monitored on the basis of EU instruments, in particular in the area of European and independent works. Indicators on employment or editorial decisions of private media entities were criticised for interfering with editorial and entrepreneurial autonomy and freedoms, which entitle each media company to freely choose its editorial line and structure, without the need for restrictive regulatory quotas for the inclusion of different parts of the community in the staffing structure. The mere inclusion of such indicators would imply that each media entity should have a proactive role in providing content for different interests or groups, whether there is a demand or not, and give the impression that they require some form of content control by authorities, through content monitoring and reporting.

A general response to the suggestion that certain indicators be removed, which in the view of the print media sector would run counter to the tradition of self-regulation in this sector, is that it would undermine the comprehensive character of the MPM. If the range of indicators were limited to those aspects that are eligible for statutory regulation, the MPM would not cover a number of aspects that are relevant to a holistic overview of the situation, leading to serious gaps in the results. The inclusion of the contested indicators is not at odds with the freedom of a media entity to hold its own independent editorial line, since the indicators do not by themselves suggest any regulatory action. They may only lead to the indication of a risk for a particular aspect of media pluralism, which may subsequently be addressed through a number of actions, following an open debate, involving all stakeholders, about the most appropriate way to manage that risk. The types of action that may be taken in cases of high risk are much broader than only statutory regulation; they could also encompass supporting measures, such as subsidies, and nothing prevents the sector itself or even individual media companies from launching particular initiatives in response to a problem signalled by the monitor.

Specifically with regard to the indicators on employment, there is a solid body of research demonstrating the link between diversity of workforce and diversity of media content,<sup>52</sup> which explains why the MPM contains a risk of ‘Insufficient representation of

<sup>52</sup> See eg EC Pease, E Smith and F Subervi, *The News and Race Models of Excellence Project: Overview Connecting Newsroom Attitudes toward Ethnicity and News Content* (2001) Maynard Institute for Journalism Education, [http://mije.org/files/industrystudies/news\\_and\\_race2.pdf](http://mije.org/files/industrystudies/news_and_race2.pdf); RA Beam and DT Di Cicco, ‘When Women Run

different cultural and social groups in HR in the media sector'. Concentration in book publishing is included, since it has been a concern of competition authorities and pluralism advocates in a number of nations. Concentration in this sector can lead to pricing power, control over related production and distribution resources used by smaller publishers, and fewer titles overall. The inclusion of an indicator on investigative reporting disclosing the hidden actions of various political actors or groups is justified, as the absence of such reporting signals a risk of insufficient sources of information for citizens about the misconduct of politicians; where there is no possibility that such misconduct can form the subject of journalistic investigation, its absence may indicate concentration of political power and as such suggests a risk of political bias in the media. Finally, the fact that certain indicators in the MPM relate to issues that are already subject to other existing monitoring activities should not prevent their inclusion in the MPM when these issues have a clear link with media pluralism. Such is the case, for instance, with some of the indicators on European and independent works, or on the right of reply. The use of existing data sources and reports—such as the biennial reports of the Member States and the Commission's Communications on the promotion of EU works and independent production—only facilitates the use of the monitor and contributes to its feasibility.

Clearly, certain concerns that have been expressed relate to the possibility that the MPM could be subverted for political ends. However, due care has been taken to reduce the scope for manipulation of the MPM. The indicators have been formulated in a neutral way and the User Guide provides the largest possible degree of transparency with regard to the methods used to measure and score them. Additionally, specific recommendations for implementation have been formulated. However, no procedure can entirely exclude the possibility of manipulation.

#### (d) Miscellaneous

Other comments raised by stakeholders and scholars<sup>53</sup> related to the suitability and feasibility of certain suggested methods of measuring the indicators, in particular in the

the Newsroom: Management Change, Gender and the News', Annual Convention of the Media Management and Economics Division of the Association for Education in Journalism and Mass Communication, Chicago, 6–9 August 2008, [www.allacademic.com/meta/p\\_mla\\_apa\\_research\\_citation/2/7/1/1/9/pages271199/p271199-1.php](http://www.allacademic.com/meta/p_mla_apa_research_citation/2/7/1/1/9/pages271199/p271199-1.php); M Djerf-Pierre, 'The Gender of Journalism. The Structure and Logic of the Field' (2007) *Nordicom Review* 81; LM Baynes, 'White Out: The Absence and Stereotyping of People of Color by the Broadcast Networks in Prime Time Entertainment Programming' in PM Napoli (ed), *Media Diversity and Localism—Meaning and Metrics* (Lawrence Erlbaum, 2007) 227; BBC et al, *Multicultural Broadcasting: Concept and Reality* (2002) report edited by Andrea Millwood Hargrave, [www.bbc.co.uk/guidelines/editorialguidelines/assets/research/multi1002.pdf](http://www.bbc.co.uk/guidelines/editorialguidelines/assets/research/multi1002.pdf); Global Media Monitoring Project, *Who Makes the News? Preliminary Report* (2010) World Association for Christian Communication, [www.whomakesthenews.org/images/stories/website/gmmp\\_reports/2010/gmmp\\_2010\\_preliminary.pdf](http://www.whomakesthenews.org/images/stories/website/gmmp_reports/2010/gmmp_2010_preliminary.pdf).

<sup>53</sup> Described in greater detail in ch 8 of the Final Report (see above, n 2).

light of existing alternative methods and/or the lack of available data. In the summer of 2009, the Italian media regulator AGCOM voluntarily tested the MPM and shared its experience at the 30th meeting of the European Platform of Regulatory Authorities (EPRA) in Dresden.<sup>54</sup> While supporting the Monitor as the most comprehensive and user-friendly tool developed so far, AGCOM suggested that some improvements would be needed in order to ensure that the MPM could be tailor-made to fit the practical situation of the various Member States. The fact that all indicators had to be scored, even though certain aspects, like cultural minorities, are not an issue in the country concerned, was criticised. This is related to another criticism voiced by some parties regarding the use of identical border values. But as explained in section 2.c, the MPM was purposely designed to allow for comparison across EU Member States, a possibility which was explicitly and strongly supported by a number of other stakeholders. At the same time, it offers users the possibility of setting their country profile according to population size and GDP per capita, leading to a differentiation in border values for a number of economic indicators—while remaining uniform in formulation and measurement method across countries and across different media sectors. The majority of stakeholders indeed considered these factors determining the size and wealth of the market as the most relevant and appropriate, and the study team was of the opinion that differences amongst Member States should not lead to deviations in border values that go beyond what is currently proposed in the ex-ante profiling mechanism. A number of stakeholders also pointed to an alleged absence, or at least under-representation, of indicators on new, particularly online, media.

## 6. CONCLUDING REMARKS

The MPM is a first step in the development of an EU-wide standardised monitoring system for detecting and dealing with societal risks in the area of media pluralism. It is also the first attempt to apply risk analysis to media policy. It starts from the hypothesis that it is feasible to search for general and substantive criteria to measure risks to media pluralism (hence, not the actual level of media pluralism) and to develop tools for the empirical assessment of diversity in the media sector, without jeopardising the multi-faceted and normative character of media pluralism.<sup>55</sup> Although the prototype will need

<sup>54</sup> Maja Cappello (AGCOM), *Testing the Media Monitor*, Dresden, 14–16 October 2009, [www.epra.org/content/english/press/papers/Dresden/Media\\_monitor\\_test\\_Italy.pdf](http://www.epra.org/content/english/press/papers/Dresden/Media_monitor_test_Italy.pdf).

<sup>55</sup> As stressed at the beginning of the article, the objective of the study was clearly not to propose a harmonised definition of media pluralism, nor to formulate a specific normative approach. It is well aware of recent academic literature in which the concept of media pluralism in itself is considered an object of political contestation, subject to continuous processes of social negotiation, which means that attempts to reach ‘pluralistic consensus’ within the EU are often regarded as suspicious and undesirable; K Karppinen, ‘Making

further fine-tuning in the light of practical experiences gained through implementation, it can substantially contribute to advancing both scholarly and policy debate by increasing transparency concerning the state of media pluralism in Member States.

The MPM offers a realistic solution to the problem of reconciling the demands of comparability between Member States with the need to take national specificities into account: while applying an identical set of indicators to all countries, it is at the same time designed to accommodate the diverging profiles of media landscapes throughout the EU by considering differences in market size, media development, and cultural and regulatory traditions. Through the ‘ex-ante profiling’ exercise, it accounts for the impact that underlying realities such as population size and average income levels have on the level of media pluralism sustainable by commercial means.

Undoubtedly, the MPM’s added value lies equally in its novel, multi-disciplinary and holistic approach combining indicators drawn from law, economics and social science, matched to different risks identified during the course of the work. This approach—much wider than merely examining the ownership of the media—is especially well adapted to the structural transformations that the media are currently undergoing as a result of new technologies and convergence. By bringing together a host of previously disparate concerns to offer a multi-faceted approach to media pluralism, the MPM will provide decision-makers with the means to develop a wider and stronger evidentiary basis for defining priorities and actions in this important area.

a Difference to Media Pluralism: A Critique of the Pluralistic Consensus in European Media Policy’ in B Cammaerts and N Carpentier (eds), *Reclaiming the Media—Communication Rights and Democratic Media Roles* (Intellect, 2009).