



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Strasbourg, 7 December 2007

CDMC(2007)023

**STEERING COMMITTEE ON  
THE MEDIA AND NEW COMMUNICATION SERVICES**

**(CDMC)**

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**6th meeting  
27 to 30 November 2007**

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**Meeting Report**

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**Items 1 and 2. Opening of the meeting and adoption of the agenda**

1. The Steering Committee on the Media and New Communication Services (CDMC) held its 6th meeting from 27 to 30 November 2007 in Strasbourg. The meeting was chaired by Mr Matthias Traimer (Austria).

The Chairperson opened the meeting and welcomed the participants, particularly those attending a CDMC meeting for the first time. The list of participants is set out in Appendix I. The CDMC adopted the agenda, as set out in Appendix II, and the order of business, as set out in document CDMC(2007)OT2.

2. Mr Jeroen Schokkenbroek, Head of the Human Rights Development Department (which includes the Media and Information Society Division), introduced himself to the CDMC and addressed participants, emphasising the importance of the work accomplished to date by the CDMC and of that currently underway.

**Item 3. Decisions of the Committee of Ministers of interest to the work of the CDMC**

3. The CDMC *took note* of the decisions referred to in paragraphs 3 and 5 of the notes to the meeting's agenda (CDMC(2007)OJ2notes). It *agreed* to report to the Committee of Ministers on any work it carries out that will contribute to the implementation of the United Nations Global Counter-Terrorism Strategy (e.g. the future work on "Living Together").

4. In response to requests from the Committee of Ministers, it examined and *adopted* comments on Parliamentary Assembly (PACE) Recommendations 1799(2007) on the image of women in advertising, 1805(2007) on blasphemy, religious insults and hate speech against persons on the ground of their religion, and 1814 (2007) towards decriminalisation of defamation. The comments as adopted are set out in Appendix III.

5. The CDMC also *noted and welcomed* the adoption on 21 November 2007 of Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms; it observed that references to the media include the caveat "while respecting fully the independence of the media and the freedom of expression".

**Item 4. Request for observer status by the non-governmental organisation Community Media Forum Europe (CMFE) with the CDMC and some of its subordinate bodies**

6. The CDMC took note of the request made by Community Media Forum Europe (CMFE). It heard a presentation by CMFE Vice-Presidents Mr Helmut Peissl and Ms Nadia Bellardi, and held an exchange of views with them. It *decided* to grant CMFE observer status only with the Group of Specialists on Media Diversity (MC-S-MD). In this context, members agreed that community media is a media sector that merits being represented in the context of CDMC work and that they can be important contributors to pluralism and democracy.

As regards CMFE's request for observer status with the CDMC, questions were raised as to their Europe-wide representativeness; this issue should be reconsidered when groups of specialists' terms of reference are prepared in late 2008 or in 2009 with a view to the

implementation of any action plan prepared for or adopted at the Reykjavik Ministerial Conference.

**Item 5. Work programme for the CDMC in 2008**

7. The CDMC *took note* of the work plans of its groups of specialists, which provide an indication of a number of issues to be examined by the Steering Committee in 2008 (with possible overflow into 2009). See also item 14 below as regards the preparation of the First Ministerial Conference on Media and New Communication Services.

8. The CDMC welcomed the proposal made, following a meeting between the chairpersons of three of the groups of specialists (MC-S-IC, MC-S-MD and MC-S-PSM), the Bureau liaison members for those groups and the Secretariat, concerning a publication on Council of Europe standards related to the media's contribution to intercultural and inter-religious dialogue, understanding, tolerance and social cohesion, highlighting also the role of freedom of expression and of the media as a cornerstone of democracy.

The CDMC *decided* to ask Ms Bissera Zankova (Bulgaria) (who had chaired the above-mentioned meeting) to coordinate this work. Resources permitting, an outline should first be prepared and then an online and paper publication on the subject under the tentative title "Living together". Related material could include a leaflet to be used for example by communities, non-governmental organisations, education institutions, a poster, additional web-based resources and links. These products should be designed to serve a broad public, policy makers, governments, educators, non-governmental organisations, various communities, the youth, etc.

CDMC members were reminded of the possibility to participate in this project also through financial voluntary contributions.

9. As regards developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism, see paragraph 15.

**Item 6. Promoting visibility of the work of the CDMC**

10. Due to the heavy agenda of the meeting, the CDMC *decided* to postpone this item to its next meeting. The Secretariat will send in due course a questionnaire to members to prepare this item.

**Item 7. Draft instruments or texts submitted for consideration by the CDMC**

*a. draft recommendation on media complaints bodies, their operation and procedures*

11. The CDMC held a first discussion on a draft text on this subject, with a view to fulfilling the ad hoc terms of reference it received from the Committee of Ministers on 13 June 2007, namely to examine and make recommendations on the operation and functioning of media complaints procedures and media complaints bodies established in member states, taking into account any difficulties faced by individuals and groups affected by statements in the media to obtain redress through these mechanisms.

It found that the draft was a good starting point and *invited* member state delegations and other participants, observers and professional organisations to provide comments by 29 February 2008. These comments could be twofold: on the one hand, concrete examples of good practice in respect of existing media complaints bodies, their status and rules, and their operation in practice could serve as inspiration for this standard-setting exercise and, on the other hand, concrete drafting proposals in respect of the text already available. The objective should be for the Bureau to be in a position to consider the matter further at its next meeting and for the text to be finalised during the CDMC's next meeting.

*b. draft recommendation and report on measures to promote respect for freedom of expression and information with regard to Internet filters*

12. The CDMC approved, subject to certain changes, the draft recommendation. It *decided* to submit the text to the Committee of Ministers for consideration and possible adoption, and also to invite the Committee of Ministers to take note of the related report.

13. These texts were prepared by the Group of Specialists on Human Rights in the Information Society (MC-S-IS) in response to item iv of its terms of reference, namely to “prepare a report on the use and impact of technical filtering measures for various types of content in the online environment, with particular regard to Article 10 of the European Convention on Human Rights and, if appropriate, make concrete proposals (e.g. in the form of a draft standard-setting instrument) for further action in this area (cf. items 19 and 23 of the Kyiv Action Plan)”.

The CDMC underlined the interest and the quality of both the draft recommendation and the report and thanked the MC-S-IS for their preparation.

#### **Item 8. Implementation of Council of Europe standards on media and freedom of expression**

*a. Implementation of the Recommendation(2000)23 of the Committee of Ministers on the independence and functions of regulatory authorities of the broadcasting sector*

14. The CDMC approved, subject to certain changes, the draft declaration prepared in this connection under the direction of the Bureau and the overview on the implementation by member states of Recommendation(2000)23. It confirmed that the overview should be appended to the declaration. It *decided* to submit the text to the Committee of Ministers for consideration and possible adoption.

The CDMC noted that the draft declaration does not introduce new standards nor does it involve changes to Recommendation(2000)23. It observed nonetheless that the notion of “culture of independence” addresses in a satisfactory manner situations where, without the existence of formally independent regulatory bodies, the spirit and objectives of Recommendation(2000)23 are met.

*b. Developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism*

15. The CDMC *decided* to follow the approach suggested by the Bureau in this respect. It *asked* the Secretariat to arrange, resources permitting, a thematic study examining

developments in national legislations since 2001 concerning the fight against terrorism which have a bearing on freedom of expression and information and freedom of the media. In light of this study, the CDMC will discuss what, if any, further action is required on the subject (e.g. a hearing in order to ascertain the impact in practice of legal developments and concrete proposals to the Committee of Ministers).

**Item 9. Discussion on a possible future mechanism in respect of Article 10 of the European Convention on Human Rights**

16. The CDMC pursued consideration of this matter. In particular, it took note of the oral report by Ms Delia Mucica (Romania) who chaired the informal working group set up by the Steering Committee to consider the questions raised by delegations at its previous meetings. The CDMC noted that not all persons invited to take part in the work of the informal group had been able to do so, and thanked all of them for their efforts, especially their constructive discussions.

The CDMC also noted the views expressed by Lord Andrew McIntosh, member of the Parliamentary Assembly and comments made by Mr Roland Bless, Director of the Office of the Representative on Freedom of the Media of the OSCE and of observers to the CDMC.

17. Discussions suggested an emerging agreement as to the desirability of a specialised mechanism designed to promote the implementation of Council of Europe freedom of expression and media related standards in practice, having regard to the specificities of each member state. The work of existing bodies that record cases of alleged violations of those freedoms should not be duplicated, and a Council of Europe mechanism should develop synergies with relevant existing bodies. Moreover, the objective of such a mechanism should be to work together with relevant member states in a spirit of cooperation and ongoing dialogue, based on professionalism and expertise, independence and impartiality.

There appeared also to be agreement as to the desirability for a “light weight” mechanism that does not require the formal creation of a new body or institution and that can easily be discontinued if it does not prove its efficacy. Due attention should also be paid to financial implications. Some delegations suggested that this mechanism could be associated to the institution of the Commissioner for Human Rights.

18. The CDMC *asked* the Bureau to prepare a more detailed paper setting out the current state of CDMC discussion on the subject and *decided* to resume consideration of this item at its next meeting.

**Item 10. Discussion on a possible Council of Europe convention on the protection of the neighbouring rights of broadcasting organisations**

19. The CDMC *decided* to ask the Committee of Ministers to give the Steering Committee ad hoc terms of reference to resume examination of this subject, taking stock of the situation and, if justified, to elaborate a draft Council of Europe binding instrument designed to reinforce the protection of the neighbouring rights of broadcasting organisations.<sup>1</sup>

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<sup>1</sup> Considering that WIPO is the appropriate body for this work, France reserved its position in respect of this proposal.

20. This question was included in the CDMC agenda following a request by the European Broadcasting Union (EBU), made its own by certain Bureau members.

The CDMC noted that work within the framework of the World Intellectual Property Organisation (WIPO) on an international treaty on this subject has come to a deadlock, but that there is consensus among European states on the need to elaborate such an instrument. Other arguments advanced related to growing problems of piracy and the desirability to protect European culture. The CDMC observed that this subject is not new to it (or for the Council of Europe) given the standard setting instruments it has already prepared, in particular the 1994 European Convention relating to questions on Copyright Law and Neighbouring Rights in the Framework of Transfrontier Broadcasting by Satellite [CETS No.: 153]<sup>2</sup> and the 2001 European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access [CETS No.: 178]<sup>3</sup>.

With the exception of a few delegations, the CDMC expressed the view that, in the circumstances, it is desirable to resume work discontinued in the late 1990s and to elaborate a Council of Europe Convention on the protection of the neighbouring rights of broadcasting organisations. In addition to EBU, it would appear that the Association for Commercial Televisions in Europe as well as private radio stations support this proposal. Several delegations (Austria, Finland, the Netherlands, Romania, Switzerland, the United Kingdom) expressed their willingness to contribute actively to this objective by making available copyright experts. The European Commission also expressed an interest to be associated with this work.

21. Against this background, the CDMC noted that, while considerable work has already been done to protect copyright and neighbouring rights, very little has been done so far on copyright with respect to freedom of expression.

Some participants suggested that this issue could be explored further by the same experts dealing with a possible convention on neighbouring rights. However, it was also recalled that, under the terms of reference given to it by the CDMC, the MC-S-IS is tasked with examining “emerging issues and trends in respect of, on the one hand, the protection of intellectual property rights and the use of technical protection measures in the context of the development of new communication and information services (and the Internet) and, on the other hand, the fundamental right to freedom of expression and free flow of information, access to knowledge and education, the promoting of research and scientific development and the protection and promotion of the diversity of cultural expressions and artistic creation.”

The MC-S-IS was invited to consult the above-mentioned (or other national experts) in respect of this item of their terms of reference.

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<sup>2</sup> See <http://conventions.coe.int/Treaty/en/Treaties/Html/153.htm> - This Council of Europe convention has been ratified by Cyprus and Norway (it therefore requires three further ratifications to enter into force) and signed by Belgium, Bosnia and Herzegovina, Germany, Luxembourg, San Marino, Spain, Switzerland and the United Kingdom, as well as the European Community.

<sup>3</sup> See <http://conventions.coe.int/Treaty/en/Treaties/Html/178.htm> - This Council of Europe convention has been ratified by Bulgaria, Croatia, Cyprus, France, Moldova, the Netherlands, Romania and Switzerland, It has also been signed by Luxembourg, Norway and the Russian Federation.

### **Item 11. Exchange of views on the digital dividend**

22. The CDMC examined a draft declaration on the management of the digital dividend (the radio spectrum freed as a result of the switch-over from analogue to digital broadcasting) and the public interest prepared under the direction of the Bureau.

There was broad agreement that the need for the public interest to be at the centre of decisions concerning the management of this common resource or asset and that due consideration should be given to media pluralism and public services, but without prejudicing discussions or decisions as to what public interest should prevail. There was also agreement as to the desirability of transmitting this text to the Committee of Ministers rapidly and making the Council of Europe position known before policies are laid out or decisions taken by relevant authorities.

However, given that delegations could not consult the document prepared at such short notice with relevant national authorities, the CDMC *decided* to finalise the draft declaration by e-mail consultation (to be concluded by 18 December 2007) with a view to its earliest transmission to the Committee of Ministers for adoption.

### **Item 12 Work of the CDMC's subordinate bodies**

23. The CDMC *took note* of progress being made by the groups to implement their terms of reference and of their work plans. It commended in particular the considerable output of the Group of Specialists on Human Rights in the Information Society (MC-S-IS) and the achievements of the Group of Specialists on freedom of expression and information in times of crisis (MC-S-IC). In this latter connection, it noted in particular the Committee of Ministers' positive reaction to the Guidelines on protecting freedom of expression and information in times of crisis adopted on 26 September 2007, as well as the comments made by one delegation concerning use already made at domestic level.

- *Group of specialists on freedom of expression and information in times of crisis (MC-S-IC) – extension of the MC-S-IC terms of reference*

24. The CDMC took note of the exchange between the Bureau and Mr Alexander Borisov, chairperson of the MC-S-IC, during its last meeting, and also heard Mr Borisov's explanations on the advancement of the group's work and its proposals for 2008 and beyond.

The CDMC *decided* not to request the Committee of Ministers to extend the terms of reference of the MC-S-IC (which, as matters stand, come to an end on 31 December 2007). However, in response to concerns expressed by some delegations, it confirmed that the issue of freedom of expression and information and freedom of the media in times of crisis will remain on the CDMC agenda but without recourse to a formal group of specialists. Ms Bissera Zankova (Bulgaria) was asked to coordinate such work (for example as regards developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism - see paragraph 15 above) in consultation with the Bureau and calling upon CDMC delegations with particular interest on the subject. Ms Zankova was also asked to coordinate work on intercultural dialogue, in particular, resources permitting, on the preparation of a publication on the media's contribution to "Living Together" (see paragraphs 3 and 8 above).

25. As regards certain concrete proposals finalised by the MC-S-IC following its last meeting (training of media professionals on safety issues and on media coverage of crisis situations; a forum on the rights and responsibilities of media and the working conditions of journalists in times of crisis; information network on the media's contribution to intercultural and inter-religious dialogue), it was *agreed* that CDMC delegations provide comments by 29 February 2008 and, if appropriate, make proposals for further action.

In respect of the forum and the network, the CDMC noted that, following the instructions of the Committee of Ministers (11 April 2007) to the Secretariat, an internet-based space is almost ready for launching, where media professionals and other interested parties will be able to exchange views on and discuss the challenges to freedom of expression and information in times of crisis (cf. item 4 of the Kyiv Action Plan). This could be one of the elements of the future forum on the rights and responsibilities of media and the working conditions of journalists in times of crisis and the network on the media's contribution to intercultural and inter-religious dialogue (cf. item 6 of the Kyiv Action Plan).

26. Concerning proposals on streamlined monitoring of the implementation of Council of Europe standards on freedom of expression and information in times of crisis (cf. item 8 of the Kyiv Action Plan), the CDMC reiterated that this is covered by its own work on a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights (cf. paragraph 9 above).

27. As for the proposal for an award for media which have made an outstanding contribution to conflict prevention or resolution, understanding and dialogue (cf. item 7 of the Kyiv Action Plan), the CDMC asked the Secretariat to pursue contacts with various prize-giving organisations (e.g. Prix Europa) and to take due account of action foreseen in the Council of Europe Whitepaper on Intercultural Dialogue once it has been adopted.

- *Group of specialists on media diversity (MC-S-MD)*

28. The CDMC heard Mr Svetlozar Kirilov-Ivanov, Vice-Chairperson of the MC-S-MD, on the advancement of the group's work and its work-plan for 2008; first drafts of documents to be submitted to the CDMC will be examined by the group at its next (March 2008) meeting. As for synergies being developed with other groups of specialists, see for example paragraph 8 above.

As regards the specific issue of media concentration, some delegations drew the attention to a major European Commission project on methodology, underlining that there should be no duplication but complementarity should be ensured. It was also recalled that, on a number of occasions, the CDMC (and previously the CDMM) discussed the desirability of monitoring media concentration but was always confronted with the difficulty to establish a link between concentration and diversity.

The CDMC expressed its satisfaction in respect of the work done by the MC-S-MD and its output to date and encouraged the group to continue its efforts.

- *Group of specialists on public service media in the information society (MC-S-PSM)*

29. The CDMC heard Mr Patrick Segalla, Chairperson of the MC-S-PSM, on the advancement of the group's work and its work-plan for 2008. The CDMC *agreed* with the



proposal that the different elements of item (iii) of the group's terms of references can be dealt with within the framework of its other objectives (namely, contribution of public service media in increasing the transparency of public authorities and facilitating their scrutiny be examined to be dealt with together with item (ii), and transparency and accountability of public service media themselves together with item (i) of the terms of reference).

The CDMC also noted, and encouraged, the ongoing cooperation with Ad hoc Committee on e-democracy (CAHDE) towards achieving common objectives.

The CDMC expressed its satisfaction in respect of the work done by the MC-S-PSM and its output to date and encouraged the group to continue its efforts.

- *Group of specialists on human rights in the information society (MC-S-IS)*

30. The CDMC heard Mr Michael Truppe, Vice-Chairperson of the MC-S-IS, on the advancement of the group's work and its work-plan for 2008. Mr Truppe enumerated the various documents being prepared by the group in response to its terms of reference, giving an indication as to the timing of their transmission to the CDMC. He drew the CDMC's attention to the group's request that, in light of its workload, an additional meeting be organised in 2008 or that a third day be added to the foreseen two meetings; MC-S-IS meeting time (and long working hours during its meetings) is used for intense and productive work on the elaboration and finalisation of documents.

The CDMC expressed its satisfaction in respect of the work done by the MC-S-IS and its output to date (see also point 7 and 13), and encouraged the group to continue its efforts. It *agreed* that, resources permitting, additional meeting time should be made available to the MC-S-IS in 2008.

**Item 13. Internet governance and implementation of WSIS action lines**

*a. Contribution of the Council of Europe to the Internet Governance Forum (Rio de Janeiro, 12 to 15 November 2007)*

31. The Chairperson of the CDMC, other CDMC members and Secretariat who attended the Internet Governance Forum (IGF) informed orally on that event and on the participation of the Council of Europe. The efforts made placed Council of Europe standards (and human rights) at the forefront of the IGF's agenda and debates, as the CDMC suggested in a message to the Committee of Ministers, adopted in its second meeting (29 November -2 December 2005)

The CDMC held a brief exchange on future Council of Europe contributions to Internet governance and to the IGF, and expressed the view that efforts undertaken in this respect should be pursued, for example in the fields of cyber crime, critical resources, literacy and protection of children in relation with freedom of expression and information.

32. In this latter respect, the CDMC *decided* to prepare a draft declaration on protecting the dignity, security and privacy of children on the Internet. This followed the invitation – that the CDMC welcomed – by Maud de Boer Buquicchio, Council of Europe Deputy Secretary General, to examine how children can best be protected from the damage that can result when they themselves place content on the Internet.

Given that delegations were not able to consult the draft document drafted during the meeting with relevant national authorities but noting the urgency of the matter, the CDMC decided to finalise this text by e-mail consultation (to be concluded by 18 December 2007) and to transmit it to the Committee of Ministers for adoption at the earliest opportunity. This declaration will reinforce Recommendation Rec(2006)12 on empowering children in the new information and communications environment.

The CDMC noted that this declaration will contribute to the implementation of the Kyiv Action Plan (cf. for example item 23, which reads “Promote the adoption by member States of measures to ensure, at the pan-European level, a coherent level of protection for minors against harmful content in traditional and new electronic media, while securing freedom of expression and the free flow of information”).

*b. Implementation of the World Summit on the Information Society action lines regarding the media (C9) and the ethical dimensions of the Information Society (C10)*

33. The CDMC took note also of information provided by the Secretariat on the Joint Council of Europe / French Commission for UNESCO / UNESCO meeting on “Ethics and human rights in the information society” held in Strasbourg on 13 and 14 September 2007.

**Item 14. First European Ministerial Conference on the Media and New Communication Services (Reykjavik 2009)**

34. The CDMC discussed a draft outline programme for the Ministerial Conference resulting from discussions within the Bureau and the themes proposed under the possible overarching title “Trust in Today’s and Future Media”. This provides a good framework for identifying upcoming topical issues related to the work of the CDMC and which will need to be addressed in the coming years. This heading would permit to examine inter alia the definition (re-definition) of media with regard to user-generated content, other media (as regards both medium and content aspects) and public service value, as well as the relations between media and individuals, including from the human dignity and ethics viewpoints.

The above-mentioned proposal was developed/amended in light of comments made during the meeting and CDMC members were invited to contribute, by end of February 2008, with reflection papers on the themes and sub-themes and on topics for roundtables. Delegations were also invited to start considering whether they would like to make substantive written submissions for the Ministerial Conference on any of the suggested sub-themes.

35. Concerning the format of the Ministerial Conference, the CDMC agreed that there be, as proposed in the outline programme, thematic roundtables involving interested Ministers, representatives of civil society and industry, as well as youth representatives. The roundtables would run in parallel to a main ongoing Ministerial session.

The CDMC confirmed the desirability of a civil society forum prior and that can report to the Ministerial Conference. In addition, subject to the agreement of the host authorities, it endorsed the proposal to include a youth forum with a similar format, also reporting to the Conference. The input of youth was regarded as highly desirable; exploring the future of communication and information services and environments can hardly be done without young

persons who are present and future users, creators of content and developers of those services and environments (particular reference was made in this context to Web 2.0).

36. As regards the dates for the Ministerial Conference, the CDMC noted that, under the Czech Presidency of the European Union, a meeting of the Council of Education, Youth and Culture is planned for 25 and 26 May 2009. Given that the proposed dates for the First European Ministerial Conference on the Media and New Communication were already known when the dates for the above-mentioned council meeting were fixed, the Chairperson suggested that it should be assumed that there is no objection to the two major meetings taking place close in time; opportunities deriving from this proximity should indeed be explored.

Consequently and taking also account of the preferences expressed by the host authorities, it was *agreed* to retain for the Reykjavik Ministerial Conference the dates previously agreed, namely Thursday 28 and Friday 29 May 2009. If the host authorities confirm the arrangements, the Ministerial Conference should be preceded by a one-day CDMC meeting on Wednesday 27 May and by civil society and youth forums on Tuesday 26 May 2009.

#### **Item 15. Standing Committee on Transfrontier Television (T-TT)**

37. The CDMC took note of information provided by the secretariat on on-going work on the revision of the European Convention on Transfrontier Television [CETS No.: 132], the aim being for the T-TT to examine a draft during its November 2008 meeting. To this end, there will be two further meetings of the Standing Committee's drafting group in 2008 (replacing one of the two yearly T-TT meetings). The CDMC reiterated its view that priority should continue to be given to completing the revision of the Convention.

38. The Steering Committee also welcomed work being done to promote further ratifications of the European Convention on Transfrontier Television and noted in this context the participation as observers of relevant authorities from Israel and Morocco in the last T-TT meeting. Further, the Secretariat informed the CDMC of its intended participation, at the invitation of the both the Catalan outgoing and Moroccan incoming presidencies, in the upcoming meeting of the Network of Mediterranean Regulatory Authorities.

#### **Item 16. Information on the work of, and co-operation with, other Council of Europe bodies, of interest to the CDMC**

39. The CDMC took note of the work of relevant Council of Europe bodies.

40. It noted, in particular, development in respect of a binding instrument on access to official documents (draft prepared by DH-S-AC, reporting to the Steering Committee for Human Rights).

The CDMC noted that, contrary to what it had previously suggested (see paragraph 34 of the report on its 4th meeting, 28 November to 1 December 2006), the DH-S-AC favoured the approach of defining in a somewhat restrictive manner official documents, instead of adopting the broader approach followed in Recommendation No. R (81) 19 on the access to information held by public authorities. Moreover, the approach followed by DH-S-AC appears not to take account of recent developments in international jurisdictions. More

particularly, concern was expressed at the rather low common standards foreseen in the draft text.

The CDMC recalled that access to information is essential in ensuring accountability in a democratic society and to allow media to fulfil its watchdog function. This position was maintained by member state representatives as well as by other participants in the meeting (e.g. the Conference of International Non-Governmental Organisation and the OSCE) and observers representing media professional organisations.

The CDMC *decided* to bring its views to the attention of the Steering Committee for Human Rights.

**Item 17. Targeted assistance and technical co-operation programmes being implemented by the Media and Information Society Division**

The CDMC was informed about the conference on "Broadcasting regulation – what future for converged regulators in South-Eastern Europe?" organised by the secretariat on 1-2 October 2007 in Skopje. The conference adopted conclusions on the pros and cons of converged regulators. The proceedings will be published for use by policy makers and regulators. The CDMC noted the importance of the issue and agreed on the need to follow up.

41. The CDMC took note that, following the last restructuring of the Directorate, the targeted assistance and technical co-operation programmes and activities will be transferred to the Directorate of Cooperation as of 1 January 2008.

Nonetheless, certain members expressed interest in remaining informed about the targeted assistance activities being organised by the Council of Europe in areas related to the CDMC's work, and noted that this information can be found in a publicly accessible database<sup>4</sup> under the rubric "Assistance Programmes" in the Media and Information Society Division's web page. If necessary, this link will be updated following the transfer of these activities to the Directorate of Cooperation.

**Item 18. Co-operation and exchanges with other countries and organisations, in particular neighbouring regions of Europe**

42. The CDMC took note of relevant information provided by the Secretariat (see in particular paragraphs 31 to 33 and 38 above).

**Item 19. Other information of interest to the work of the CDMC**

43. The CDMC took note of the information provided orally by Mr Luis Santos Ferro (Portugal) of the on-going and future activities related to Media and Information Society of the Portuguese Presidency of the European Union.

**Item 20. Administrative and budgetary matters**

44. The CDMC took note of the information provided by the Secretariat on relevant issues and developments relating to administrative and budgetary matters.

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<sup>4</sup> <http://www.dsp.coe.int/HR/media/>

**Item 21. Elections**

45. The CDMC held elections for Chairperson and Vice-Chairperson as well as three Bureau members.

It re-elected Mr Matthias Traimer (Austria) as Chairperson and Ms Delia Mucica (Romania) as Vice-Chairperson (both for a second one-year term ending 31 December 2008). It also re-elected Mr Frédéric Riehl (Switzerland) as Bureau member (for a second two-year term ending 31 December 2009) and elected Messrs Garegin Chugaszyan (Armenia) and Luis Santos Ferro (Portugal) as Bureau members (both for a first two-year term ending 31 December 2009). The remaining two members of the Bureau are Ms Elfa Yr Gylfadottir (Iceland) and Mr Andris Mellakauls (Latvia) (both serving their first two-year term ending 31 December 2008).

46. The CDMC warmly thanked the two outgoing members of the Bureau, Ms Bissera Zankova (Bulgaria) and Ms Vesna Poposka (the Former Yugoslav Republic of Macedonia) for the valuable contribution to the work of the Bureau and of the CDMC.

**Item 22. Dates of next meetings**

47. The CDMC noted the list of meetings for 2008, including the dates of meetings for its Bureau and groups of specialists, and of the T-TT. The Austrian delegation indicated its intention to host the next (7th) CDMC meeting in Vienna. This may involve changing the dates initially foreseen (from 10 to 13 June 2008).<sup>5</sup>

**Item 23. Items to be included on the agenda of the 7th meeting of the CDMC**

48. The CDMC *approved* the preliminary list of items to be included in the agenda for its 7th meeting (CDMC(2007)020), in particular in the light of the decisions which it has previously taken.

**Item 24. Other business**

49. No issues were raised under this item.

**Item 25. Abridged report**

50. The CDMC examined and *adopted* the abridged report of its 6th meeting, subject to certain changes. The full meeting report will be prepared within the coming weeks and circulated to CDMC members for comments and adoption by e-mail exchange.

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<sup>5</sup> The Secretariat was subsequently informed that major sporting events would take place in Vienna as from 7 June, lasting more than two weeks. Subject to confirmation that it will take place in Vienna, the meeting has therefore been tentatively re-scheduled to 27 to 30 May.

**APPENDIX I****LIST OF PARTICIPANTS****MEMBER STATES / ETATS MEMBRES****Armenia/Arménie**

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## APPENDIX II

### DRAFT AGENDA

#### 1. Opening of the meeting

#### 2. Adoption of the agenda

##### Working documents

- Draft agenda for the 6th meeting of the CDMC  
CDMC(2007)OJ2
- Annotated draft agenda for the 6th meeting of the CDMC  
CDMC(2007)OJ2Notes

#### 3. Decisions of the Committee of Ministers of interest to the work of the CDMC

##### Working documents

- Report of the last CDMC meeting  
CDMC(2007)009
- Draft comments on the PACE recommendations (as listed below)  
CDMC(2007)015
- PACE Recommendation 1799(2007) on the image of women in advertising
- PACE Recommendation 1805(2007) on Blasphemy, religious insults and hate speech against persons on the ground of their religion
- PACE Recommendation 1814 (2007) towards decriminalisation of defamation
- Conclusions of the International Conference “Why terrorism? Addressing the conditions conducive to the spread of terrorism” (Strasbourg, 25 and 26 April 2007)  
CM(2007)94add
- Council of Europe “road map” for the implementation of the United Nations Global Counter-Terrorism Strategy.  
CDMC(2007)011

#### 4. Request for observer status by the non governmental organisation CommunityMedia Forum Europe (CMFE) with the CDMC and expert groups (MC-S-MD and MC-S-PSM)

##### Information documents

- CMFE-Brief20070926-CDMC(2)
- By-laws of the NGO: Formulaire lasbl\_cmfe05122

#### 5. Work programme for the CDMC in 2008

##### Working documents

- Work plans of CDMC groups of specialists
- MC-S-IC(2007)001, MC-S-MD(2007)003, MC-S-PSM(2007)004, MC-S-IS(2007)015

- Compendium of the terms of reference of the CDMC subordinate bodies for 2007/2008  
CDMC(2007)002

## **6. Promoting visibility of the work of the CDMC**

### Information documents

- Report of the last meeting of the CDMC  
CDMC(2007)009
- Resolution of the Committee of Ministers on committees and subordinate bodies, their terms of reference and working methods  
CM Resolution (2005)47
- Questions addressed to CDMC members and observers  
CDMC(2007)016

## **7. Draft instruments or texts submitted by the Group of Specialists for consideration by the CDMC**

- a. draft recommendation on media complaints bodies, their operation and procedures

### Working documents

- CDMC(2007)017

- b. draft recommendation and report on measures to promote respect for freedom of expression and information with regard to Internet filters

### Working documents

- MC-S-IS(2007)017rev2

## **8. Implementation of non-binding instruments on media and freedom of expression prepared under the authority of the CDMC**

- (i) Implementation of the Recommendation(2000)23 of the Committee of Ministers on the independence and functions of regulatory authorities of the broadcasting sector

### Working documents

- Recommendation of the Committee of Ministers on the independence and functions of regulatory authorities of the broadcasting sector – Rec(2000)23
- Compilation of information with a view to assessing the situation as regards the independence and functions of regulatory authorities in the broadcasting sector in Council of Europe member states  
CDMC(2007)005

- (ii) Developments in member states with reference to standards concerning freedom of expression and information in the context of the fight against terrorism

### Information documents

- Declaration of the Committee of Ministers on Freedom of expression and information in the media in the context of the fight against terrorism, adopted on 2nd March 2005

Decl-02.03.2005

- Guidelines of the Committee of Ministers on protecting freedom of expression and information in times of crisis, adopted on 26th September 2007  
CM/Del/Dec(2007)1005/5.3/annexe11
- Declaration by the Committee of Ministers on the protection and promotion of investigative journalism , adopted on 26 September 2007  
Decl-26.09.2007

## **9. Discussion on a possible future mechanism in respect of Article 10 of the European Convention on Human Rights**

### Information documents

- Revised discussion paper prepared by the Secretariat on a possible future mechanism for promoting respect of Article 10 of the European Convention on Human Rights  
CDMC(2006)025rev2
- Revised document containing responses from member States  
CDMC(2007)013rev2
- Charts summarizing responses to the consultation organised on the subject  
CDMC(2007)Misc6rev2
- Report of the last meeting of the CDMC  
CDMC(2007)009
- Presentation of the work of the informal working group.  
CDMC(2007)Misc7

## **10. Discussion on a possible Council of Europe convention on the protection of the neighbouring rights of broadcasting organisations**

### Reference document

- Committee of Ministers recommendation CM Rec(2002)7
- E-mail from EBU dated 3 October 2007 and attachments

## **11. Committee of Ministers declaration on the management of the digital dividend**

### Working documents

Compilation of views expressed by Member States – CDMC(2007)Misc8  
 Draft CM declaration  
 Background paper from EPRA/2007/13 on Regulatory challenges of the Digital future  
 Text of Nicola Franck's intervention (EBU) at the EPRA meeting of 5th October 2007  
 Speech by Commissioner Viviane Reading on "The digital dividend: towards a win-win situation for the media and tele-communication sectors", at the EPRA meeting of 18-19 October 2007

## **12. Work of the CDMC's subordinate bodies**

### Reference documents

- Compendium of the terms of reference of the CDMC subordinate bodies for 2007/2008  
CDMC(2007)002

**Group of specialists on freedom of expression and information in times of crisis (MC-S-IC) – extension of the MC-S-IC terms of reference**

Working documents

- Report of the 6th meeting (20-21 September 2007)  
MC-S-IC(2007)011
- Work plan of the MC-S-IC for 2007  
MC-S-IC(2007)001
- Draft Terms of reference of the MC-S-IC for 2008  
MC-S-IC(2007)010
- Draft paper on training of media professionals covering crisis situation  
MC-S-IC(2007)002rev2
- Forum on rights and responsibilities of the media and the working conditions of journalists in times of crisis and information network on the media's contribution to inter-cultural and inter-religious dialogue  
MC-S-IC(2007)009

**Group of specialists on media diversity (MC-S-MD)**

Working documents

- Report of the 6th meeting of the MC-S-MD (10-11 September 2007)  
MC-S-MD(2007)007
- Work plan of the MC-S-MD for 2007/2008  
MC-S-MD(2007)003

**Group of specialists on public service media in the Information Society (MC-S-PSM)**

Working documents

- Report of the 6th meeting of the MC-S-PSM (10-11 October 2007)  
MC-S-PSM(2007)009
- Work plan of the MC-S-PSM for 2007/2008  
MC-S-PSM(2007)004

**Group of specialists on human rights in the Information Society (MC-S-IS)**

Working documents

- Report of the 8th meeting of the MC-S-IS (29-30 October 2007)  
MC-S-IS(2007)028
- Work plan of the MC-S-IS for 2007/2008  
MC-S-IS(2007)015

**13. Internet governance and implementation of WSIS action lines**

- a) Contribution of the Council of Europe to the Internet Governance Forum (Rio de Janeiro, 12 to 15 November 2007)

Information documents

- Council of Europe submission to the 2nd Internet Governance Forum  
Building a free and safe Internet



- IGF 2nd meeting - Submission Synthesis Paper
- IGF programme
- IGF workshops programme

b) Implementation of the World Summit on the Information Society action lines regarding the media (C9) and the ethical dimensions of the Information Society (C10)

#### Information documents

- Programme and conclusions of the Joint Council of Europe/French Commission for UNESCO/UNESCO meeting on “Ethics and human rights in the information society”

### **14 First European Ministerial Conference on the Media and New Communication Services (Reykjavik 2009)**

#### Working document

- Outline programme
- CDMC(2007)018

#### Information documents

- Report of the last CDMC meeting CDMC(2007)009
- Comments from Members States on the format and possible themes for the conference
- 1<sup>st</sup> European Ministerial Conference on Media and New Information Communication Services. Background paper  
CDMC-BU(2007)002

### **15 Standing Committee on Transfrontier Television (T-TT)**

#### Information documents

- Report of the 42nd meeting (8 and 9 October 2007)  
T-TT(2007)007
- Annotated draft agenda for the 3rd meeting of the drafting group (26 and 27 November 2007)  
T-TT-GDR(2007)OJ3Notes

### **16 Information on the work of, and co-operation with, other Council of Europe bodies, of interest to the CDMC:**

- PACE
- CDDH / DH-S-AC
- CAHDE

### **17 Targeted assistance and technical co-operation programmes being implemented by the Media and Information Society Division**

### **18 Co-operation and exchanges with other countries and organisations, in particular neighbouring regions of Europe**

### **19 Other information of interest to the work of the CDMC**

- Report on previous European Union presidency (Germany)
- Report on European Union presidency (Portugal)

**20. Administrative and budgetary matters**

**21. Elections**

**22. Dates of the next meeting**

Information documents

- proposed timetable for meetings in 2008  
CDMC(2007)012

**23. Items to be included on the agenda of the 7th meeting of the CDMC**

**24. Other business**

**25. Abridged report**

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### APPENDIX III

**Comments of the Steering Committee on the Media and New Communication Services  
(CDMC) on  
Recommendation 1799 (2007) of the Parliamentary Assembly of the Council of Europe  
on the image of women in advertising**

1. The Steering Committee on the Media and New Communication Services (CDMC) fully agrees that negative images and representations of women in advertising are a persistent problem that affect the dignity and health of women and young girls, as indicated in Recommendation 1799 (2007) of the Parliamentary Assembly of the Council of Europe (PACE) on the image of women in advertising. The CDMC is convinced that the media is an important catalyst for potential social change in this respect, in particular in raising awareness and in empowering<sup>6</sup> the public.

2. The CDMC considers that gender equality in all spheres of society, including the media and advertising, is of the utmost importance for effective democracy, human rights and human dignity for everyone. It considers that Committee of Ministers Recommendation CM/Rec (2007)17 on gender equality standards and mechanisms offers a way forward for member states to focus themselves in order to implement gender equality in practice.

3. The CDMC stresses that this practice should include preparing advertisements with a sense of responsibility towards society and with consideration of the moral values of citizens<sup>7</sup>. It would stress that, already in the publicity campaigns sponsored in the media by public authorities, this practice should include barring any exploitation of the bodies of women and men to draw attention to goods or services<sup>8</sup>.

These and other efforts should result in positive, balanced and diverse portrayals of women's and men's images and roles by the media, including in advertisements, while fully respecting the independence of the media and the freedom of expression subject only to restrictions which fulfil the conditions of Art.10, paragraph 2 of the European Convention on Human Rights. In this connection, the CDMC would recall that, according to the case law of the European Court of Human Rights, freedom of expression and information is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. This applies equally to the images contained in commercial messages and advertising.

4. The CDMC is not however convinced of the need to make incitement to discrimination in advertising a criminal offence in the domestic laws of member states<sup>9</sup>. It reasserts the right to freedom of expression and information pursuant to Article 10 of the European Convention on Human Rights and encourages the adoption and implementation of self-regulatory measures (guidelines, codes of conduct, other regulations) and schemes which

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<sup>6</sup> Committee of Ministers' Recommendation Rec (2006) 12 on empowering children in the new information and communications environment.

<sup>7</sup> Committee of Ministers' Recommendation No. R (84) 3 on principles of television advertising.

<sup>8</sup> Committee of Ministers' Recommendation No. R (84) 17 on equality between men and women in the media.

<sup>9</sup> Paragraph 12.3.1 of the PACE Resolution 1557 (2007) on the image of women in advertising.

reinforce the responsibilities of national advertising standards authorities<sup>10</sup> where they do not already exist.

5. Furthermore, the CDMC supports the Assembly's recommendations to encourage basic and further training for advertising professionals<sup>11</sup>, to teach children to distinguish between advertising and reality<sup>12</sup> and to run press campaigns<sup>13</sup> regarding gender equality, actions which should, for the most part, be undertaken by the media.

6. The Assembly also requests the Committee of Ministers to appoint an international committee of experts to make an in-depth study of the image of women and men in advertising<sup>14</sup>. While the CDMC understands the interest of such a possible initiative, it considers it should be done from a gender equality angle and that a code of conduct should be the result of self-regulation; in the CDMC's view, having regard to Article 10 of the European Convention on Human Rights and the case law of the European Court of Human Rights, this is not a matter for intergovernmental standard setting. On the other hand, a European prize as proposed by the PACE<sup>15</sup> might be a way of providing positive encouragement and of giving visibility to the best examples of good practice.

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<sup>10</sup> Idem paragraph 12.4.

<sup>11</sup> Idem paragraph 12.5.1.

<sup>12</sup> Idem paragraph 12.5.3.

<sup>13</sup> Idem paragraph 12.5.4.

<sup>14</sup> Paragraph 2 of PACE Recommendation 1799 (2007).

<sup>15</sup> Idem paragraph 4.1.

**Comments of the Steering Committee on the Media and New Communication Services  
(CDMC) on  
PACE Recommendation 1805 (2007) on Blasphemy, religious insults and hate speech  
against persons on the ground of their religion**

The Steering Committee on the Media and New Communication Services (CDMC) shares the view that, in multicultural societies, it is often necessary to reconcile freedom of expression and freedom of thought, conscience and religion as indicated in Recommendation 1805 (2007) of the Parliamentary Assembly of the Council of Europe on Blasphemy, religious insults and hate speech against persons on the ground of their religion.

The CDMC also agrees that in some instances, it may be necessary to place restrictions on these freedoms but that, under the European Convention of Human Rights, any such restrictions must be prescribed by law, necessary in a democratic society and proportionate to the legitimate aims pursued. In this context, states enjoy a margin of appreciation given that national authorities may need to adopt different solutions taking account of the specific features of each society; this margin is subject to the supervision of the European Court of Human Rights.<sup>16</sup>

The CDMC welcomes the work of different Council of Europe bodies on intercultural dialogue and human rights in a multicultural society, dealing inter alia with questions of blasphemy, religious insults and hate speech against persons on the ground of their religion. The CDMC is following this work with great interest and looks forward to the adoption of the White Paper on Intercultural Dialogue, which will, no doubt, make a significant contribution to discussions on the subject.

The CDMC would nonetheless recall that, according to the case law of the European Court of Human Rights, subject to paragraph 2 of Article 10 of the European Convention on Human Rights, the right to freedom of expression consecrated therein is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb.<sup>17</sup>

As regards the question of hate speech, the CDMC considers that Recommendation No. R (97) 20 of the Committee of Ministers on "hate speech" sufficiently covers questions regarding hate speech disseminated through the media, and does not see a need to rewrite it at this stage. It does acknowledge, however, the desirability of enhancing the visibility and impact of the standards set out therein.

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<sup>16</sup> cf in this context for example the judgments of the European Court of Human Rights *Kokkinakis v. Greece* (1993) in which the Court pointed out that those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism. However, it also stated that in extreme cases the effect of particular methods of opposing or denying religious beliefs can be such as to inhibit those who hold such beliefs from exercising their freedom to hold and express them.

On the question of the state's margin of appreciation in restricting freedom of expression to safeguard morals or religious feelings of others see *Otto-Preminger-Institute v. Austria* (1994) §50.

<sup>17</sup> cf. for example *Handyside v the United Kingdom* (1976), §49

**Comments of the Steering Committee on the Media and New Communication Services  
(CDMC) on  
PACE Recommendation 1814 (2007) towards decriminalisation of defamation**

1. The Steering Committee on the Media and New Communication Services (CDMC) supports the Parliamentary Assembly's call to all member states to review their defamation laws and, where necessary, make amendments in order to bring them into line with the case-law of the European Court of Human Rights, with a view to removing all risk of abuse or unjustified prosecutions.
2. In this context, the CDMC would like to refer to its *Reply to the Committee of Ministers on the alignment of laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation* (document CM(2006)148, Appendix II), in which the CDMC found that there is an urgent need for the Council of Europe to promote strict alignment of national criminal, administrative and civil laws on defamation with the relevant case-law of the European Court of Human Rights.
3. In the above-mentioned document, the CDMC also deemed it desirable that member states should take a proactive approach in respect of defamation by examining, even in the absence of judgments of the European Court of Human Rights concerning them directly, domestic legislation against the standards developed by the Court and, where appropriate, aligning criminal, administrative and civil legislation with those standards. Where necessary, steps should also be taken to ensure that the application in practice of laws on defamation complies fully with those standards.
4. The reply and related background document<sup>18</sup> also set out the general principles that the Court has developed in its case-law on defamation. Given the European Court of Human Rights' own role and its power to adjudicate claims of violations of Article 10 in specific cases, having regard to all surrounding circumstances, the CDMC does not consider it advisable at this point in time to develop separate detailed rules on defamation for member states.
5. Finally, in the CDMC's view, there is no need at present to revise the Committee of Ministers' Recommendation Rec(97)20 on hate speech or to prepare guidelines taking into account new developments on this subject, notably as regards the European Court of Human Rights' case-law. More efforts could however be made by member states to give the Recommendation more visibility and make better use of it. The CDMC would underline that, in addition to other state bodies, national parliaments have a key role to play in this respect, as they also do concerning more generally the alignment of laws on defamation with the relevant case-law of the European Court of Human Rights.

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<sup>18</sup> *Examination of the alignment of the laws on defamation with the relevant case-law of the European Court of Human Rights, including the issue of decriminalisation of defamation* (CDMC(2005)007)