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Recommendation CM/Rec(20XX)XX of the Committee of Ministers to member states on promoting a favourable environment for quality journalism in the digital age

2nd draft as of 19 November 2018

Preamble

1. Freedom of expression is a human right enjoyed by all individuals, and a cornerstone of democracy. Media freedom and ethical journalism are likewise central to the functioning of democratic societies as they help individuals form and express their opinions, monitor governmental actions and inaction, and participate as informed citizens in democratic processes. Journalists seeking to provide accurate and reliable information in accordance with the standards of the profession enjoy the highest protections under Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, "the Convention").

2. Quality journalism, with its unwavering commitment to the pursuit of truth, fairness, and accuracy, to independence and transparency, and a strong sense of public interest in promoting accountability in all sectors of society, remains as essential as ever to the health of democracies. It may take different forms in different geographical, legal and societal contexts, yet with a common goal of fulfilling the role of public watchdog in a democratic society and of contributing to public awareness and enlightenment. All media, in their increasing variety, have important roles to play in fulfilling the promise of journalism at a time when the ever-growing amount of information accessible by large audiences stretches societal abilities to gauge its accuracy and reliability.

3. Quality journalism may only prosper where governments respect freedom of expression and ensure a favourable environment for media freedom, as outlined in Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors. Policies promoting quality journalism and positive steps taken to implement them should in no case undermine media freedom and editorial autonomy.

4. The digital revolution has opened up unprecedented opportunities for human communication across borders, including by creating new expressive spaces for people in non-democratic regimes and for the informational needs of underserved groups and communities. The development of online tools has also been beneficial to journalism, by facilitating, among others, big data journalism and large-scale cross-border collaboration among investigative journalism organisations.

5. At the same time, rapid technological development – including the switch from analogue to digital, the growing dominance of social networks and mobile technologies, and the rise of artificial intelligence – has had profound disrupting effects on the news business generally and the preservation of quality journalism in particular. The vertiginous speed of information sharing online undermines depth and accuracy of reporting. Distribution of media content has been radically transformed, and human editorial choices are being increasingly replaced by the non-transparent algorithms of major global online platforms, driven by commercial considerations of scale, shareability and monetisation. Surveillance of journalists and their sources has also become easier and more pervasive.

6. The new information ecosystem has also radically transformed news dissemination and the news consumption habits of audiences, especially among the youth. The sheer abundance of information, algorithmic manipulation, and dispersed attention spans have made it markedly more difficult for many to identify and access quality journalism. In some ways, the business models of the social platforms and other intermediaries, which have become a main source of news and information for large global audiences, appear to facilitate or even incentivise the spread of unreliable media content and outright manipulation, contributing to a growing divide in society. This, in turn, tends to

undermine public trust in the media, which is further exacerbated by growing political partisanship in some contexts and attacks against the media by populist politicians. Traditional mass media, however, are increasingly unable to counteract these processes due to a declining reader and viewer base.

7. Democracies have witnessed the growing threats posed by the spread of disinformation and online propaganda campaigns, including as part of large-scale coordinated efforts to subvert the democratic processes of other countries. These threats have led to a number of high-level public enquiries and efforts, including by the Council of Europe, to understand and develop ways of dealing with mass disinformation. At the same time, unscrupulous politicians have used the "fake news" agenda to launch self-serving attacks against critical media and tighten legal restrictions on legitimate expression.

8. Financial sustainability remains one of the most formidable challenges of our era for quality journalism. Traditional, advertising-based media business models have been upended, while the transformation of major online platforms in many respects into publishing companies has, to a great extent, separated news production from news dissemination and placed media fortunes at the mercy of changing algorithmic policies. The trend toward greater concentration and convergence in the sector and across national markets threatens the diversity of sources and viewpoints, a fundamental tenet of democracy. Local journalism has been especially hard hit by the new economic fundamentals and is on the verge of disappearing entirely in many places, stripping communities of crucial watchdogs over local governments and public affairs.

9. Financial pressures have led to relentless and prolonged cost-cutting and layoffs, increasing the precariousness of journalism and degrading working conditions for large numbers of media professionals. The push towards "faster" and less expensive news becomes a vicious cycle that lowers standards and makes journalism less attractive as a career path for the next generation.

10. A part of the media sector have had some success in developing new business models for quality journalism, through a combination of increased digital subscriptions and membership fees, greater advertising revenue, donations from users and other actors, and non-profit models, among others. Making such funding models sustainable will be crucial for the future of quality journalism in the digital age. However, it will be equally important to ensure that everyone has access to a diverse range of journalistic content, irrespective of income levels and other socio-economic barriers. Public service media and not-for-profit community media shall have a crucial role to play in this context, provided they have adequate means and funding.

11. Governments, major online platforms and other commercial actors, such as large advertisers, also have a fundamental role to play in supporting quality journalism and ensuring the integrity of our information ecosystems, as public goods and part of the companies' corporate social responsibilities. Given the scale of the disruption to the financial foundations for quality journalism as we have known it, it is hard to imagine that the latter may survive and prosper without significant transfers of revenue from major platforms, which have accumulated unprecedented levels of wealth by monetising third-party content and user data and attention.

12. It is encouraging that some of the online platforms have recently taken certain steps to prevent the use of their networks as conduits for large-scale disinformation and public manipulation campaigns, as well as to give greater prominence to generally trusted sources of news and information. The effects of these measures must be studied

carefully, including as to their impact as "gatekeepers" on the free flow of information and ideas in democratic societies. It is essential, in this respect, that private operators provide the highest possible level of transparency on the technical and self-regulatory policies that undergird their preventive measures and standard operations, and that they act in full compliance with the internationally recognised human rights and fundamental freedoms of their users.

13. Member states maintain the specific responsibility of ensuring sufficient variety in the overall range of media types providing independent, quality journalism, bearing in mind differences in terms of their purposes, functions and geographical reach. The complementary nature of different media types strengthens external pluralism and can contribute to creating and maintaining diversity of media content. Public service, local and community media are irreplaceable contributors to democratic debate and pluralism.

14. Public service media has traditionally played an important role in setting quality standards for journalism and serving the public interest by securing a diversity and plurality of choices. In an increasingly fragmented information ecosystem, where online gateways actively "push" content to consumers, public service media should keep on playing a unifying role. In this context, there is a need to address the potential clash between consumer and societal interests in member states' audiovisual regulations.

15. Despite an increase in fact-checking efforts, trust in media is declining, as is citizens' trust in expertise, politics and institutions. Enhanced professionalism, transparency and higher accountability within media organisations and digital intermediaries can contribute to (re)establishing trust and healthy relationships between media actors and audiences. Moreover, operating in a digital environment should rest on firm ethical standards, in particular regarding the use of user-generated content, of customer/audience personal data, tracking, and the respect of privacy.

16. Civic education, community-building and the promotion of freedom of expression within society are important tasks for the media and individuals committed to producing quality journalism. Media and Information Literacy (MIL) initiatives which promote the skills and knowledge required to recognise and value quality journalism, or that illustrate the benefits of quality journalism to various audiences, should receive maximum support from the member states.

17. An enabling environment for quality journalism is open to experimentation with contents, formats and distribution methods, to collaboration across media sectors and platforms, and is able to sustain creative ideas through positive measures and adequate financial support. Member states, online platforms and other interested stakeholders will need to work collaboratively to support an independent, diverse and economically viable media including as a means of responding to disinformation.

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Under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1), the Committee of Ministers recommends that governments of member States:

  i.   fully implement the Guidelines set out in the Appendix of this Recommendation;

ii.   in implementing the Guidelines, take account of the relevant case law of the European Court of Human Rights and previous Committee of Ministers' recommendations to member States and declarations (…)

iii.   promote the goals of this Recommendation at the national level and engage and co-operate with all interested parties to achieve those goals.

iv.   review regularly the measures taken to implement this Recommendation with a view to enhancing their effectiveness.

In addition, member states should ensure that all other involved stakeholders (all media actors, intermediaries, academics, self-regulation bodies, civil society, etc.) are aware of their respective roles, rights and responsibilities to sustain a favourable environment for quality journalism as outlined in the Appendix of this Recommendation.

Appendix to Recommendation CM/Rec(20XX)XX

Guidelines on promoting quality journalism in the digital age

These guidelines are designed to reinforce independent, accurate and reliable quality journalism, committed to the pursuit of truth and to the need to minimise harm, as a pillar for the functioning of democracies. The guidelines are organised into three sections: Funding, Ethics and Education. Within each section, detailed guidance is offered to member states and other relevant stakeholders on how to fulfil their relevant obligations, combining legal, administrative and practical measures through coherent and complementary strategies.

1. Promoting sustainable funding for quality journalism as a public good

1.1. The legal framework for financial sustainability of quality journalism

1.1.1. Ensuring the financial sustainability of quality media as a sector is an essential element of the favourable environment for freedom of expression that states are required to guarantee in law and practice. This is especially so at a time when the economic models and circumstances that have traditionally supported quality journalism are being radically transformed by new economic realities, including the cross-border effects of the digital revolution.

1.1.2. States are called upon to assess the need for corrective measures, of a legislative, regulatory or facilitating nature, aimed at ensuring the financial sustainability of quality journalism as a public good. Such assessments should look with priority into the situation of local journalism and other parts of the sector that face particular financial challenges, such as investigative journalism and cross-border journalism.

1.1.3. Any corrective measures should take into account the distinct roles and important contributions to quality journalism of different media operators, including commercial media, public service media, and community media, whether traditional, digital-based or mixed. They should all be eligible, in principle, to benefit from state policies aimed at enhancing the financial viability of the sector. However, targeted support for specific types of journalism is likely to be more effective than generalised measures.

1.1.4. As noted in multiple prior Council of Europe recommendations and other instruments, public service media have a special role to play in promoting diversity and setting quality standards. States should ensure stable and adequate funding for public service media in order to guarantee their independence, innovation, high standards of professional integrity and enable them to properly fulfil their remit. Furthermore, existing funding schemes for public service media should not be compromised by any support measures or schemes aimed at other media sectors.

1.1.5. In upholding media diversity as a basis of quality journalism, states can use a range of tools, including at the local level, to ensure that community media, as well as other types of media serving local and rural communities, have space to operate on all distribution platforms and have adequate resources to do so.

1.1.6. In securing an enabling economic environment, states should pay particular attention to the development of general, viewpoint-neutral policies, such as a favourable tax or regulatory status, that seek to support innovation and the development of alternative or adapted business models for quality journalism. In particular, any tax exemptions should, in principle, apply equally to traditional, online or mixed-platform media. To allow for experimentation of various funding models, states should consider removing any regulatory obstacles to the establishment and operation of media operators as charities or not-for-profit entities, and should allow for donations that benefit fully from any legally available tax or other advantages. Reasonable public interest criteria may be imposed as part of the general requirements for obtaining not-for-profit status.

1.2. Support measures for quality journalism

1.2.1. Where general, indirect measures of support are deemed, or appear to be, insufficient to address market failure or adverse market conditions, whether generally or with respect to specific issues or sub-sectors, states should also consider adopting policies of financial and other direct support to quality journalism. Such measures should include specific targeted support for investigative journalism, local reporting and other resource-intensive or endangered forms of journalism of high public value.

1.2.2. In particular States should consider, in close collaboration with national associations of journalists, the establishment of national funds for investigative journalism, or support to any existing funds aimed at financing investigations of public interest issues. The statutes of such funds should guarantee that they are non-profit, operated by an independent body and guided by the principles of transparency and accountability. Such funds could receive public subsidies and private donations whose transparency must be guaranteed.

1.2.3. Any direct or indirect subsidies or other forms of financial support should be granted on the basis of objective, equitable and viewpoint-neutral criteria, within the framework of non-discriminatory and transparent procedures, and should be administered by a body enjoying functional and operational autonomy, such as an independent media regulatory authority. They should be implemented in full respect of the editorial and operational autonomy of the media beneficiaries.

1.2.4. Also press councils and other media self-regulation mechanisms should have access to financial support schemes, in order to secure their independence and financial sustainability.

1.2.5. The conditions for granting support should be reconsidered periodically to ensure that they remain fit for purpose in view of market and technological changes. Independent bodies responsible for the allocation of direct subsidies should publish annual reports on the use of public funds to support media actors.

1.3. Redistribution mechanisms between online platforms and media companies

1.3.1. States should consider adopting redistributive measures aimed at ensuring a fair sharing of advertising and marketing revenue among media companies, on the one hand, and major online platforms and other operators, on the other, that benefit significantly from the redistribution of high-quality content produced by media entities. Such measures should go beyond the payment of any fees that may currently apply under copyright laws, and should seek to benefit media publishers of different sizes and profiles, consistent with their specific contributions to public interest journalism.

1.3.2. Online intermediaries, major platforms and advertisers that engage in large-scale dissemination and monetisation of third-party content should recognise their responsibility to make significant contributions, financially and through other means, to the preservation of quality journalism in the markets in which they have a significant business presence. Ultimately, there will be little information of value to distribute if the primary creators of such valued content increasingly disappear. In addition to any state-mandated measures, intermediaries are therefore urged to establish voluntary support programs for quality journalism, which should be administered in broad accordance with the principles outlined above for government subsidy programs. Such contributions should be independent from the choice of tools and platforms of the beneficiaries and there should be strong guarantees for the editorial autonomy of the benefiting media.

1.4. Working conditions of journalists

1.4.1. Support policies should include measures to counter the progressive deterioration of the working conditions of journalists in the digital era, which is a major contributing factor to the decline of quality journalism. Regulatory frameworks should be adequately enforced to ensure that journalists are employed, as far as possible, on regular contracts, receive full social benefits, and otherwise enjoy all labour rights guaranteed by law.

1.4.2. Trade unions and journalists' associations also have an important role to play in promoting quality journalism, and in assisting the profession in adapting to the new business and technological environment. Among other priorities, they should defend the rights of the rapidly growing number of freelance journalists, and advocate for granting them a core of common rights enjoyed by salaried employees, including with respect to minimum pay. Media and professional associations should diversify themes and fields of training, and develop specific support programs for young professionals and other colleagues exposed to particularly precarious working conditions.

2. Ethics and quality – rebuilding and maintaining trust

2.1. Production of quality content

2.1.1. The use of multiple sources of information, including user-generated content, in the process of news production and, in particular, for breaking news coverage, requires maximum accuracy and transparency to preserve credibility. Several tools, techniques and

ethical guidelines are available, on topics such as social news gathering, how to deal with user-generated content during emergencies or using eyewitness video as evidence. These guidelines should be integrated into basic journalism training and establish fact-checking as one of the most important indicators of quality journalism.

2.1.2. The media commitment to verification and quality control should be complemented by effective voluntary media self-regulatory mechanisms such as ombudspersons and press/media councils. Audiences should have access to understandable and transparent complaints system allowing them to flag content breaching the journalistic professional and ethical standards, also when distributed online. Complaints should be handled by independent bodies tasked with upholding journalistic professional and ethical standards and able to conduct own investigations into compliance or breach of those standards. Such independent bodies should have meaningful power, in particular to require the publication of prominent corrections and critical adjudications.

2.1.3. The opportunities provided by the digital environment for addressing audiences with special needs should be further explored, whilst maintaining diversity inclusion as the guiding principle. Balanced representation and equal participation of all groups in society in the news, and in the media in general, are still unsatisfactory. More efforts are needed to develop innovative formats that promote dialogue and participation across different segments of the population in relation to quality content, versus just entertainment. Accurate and reliable information must be available in different languages, including minority languages, to fulfil the right to receive and impart information and ideas as foreseen by Article 10.

2.1.4. The information needs of different age groups, and especially children, should be specifically addressed through the availability of quality content suited to the interests and literacy levels of various age groups. Media platforms enabling direct participation within a moderated context and providing training should receive specific support.

2.1.5. Fair gender portrayal in the news remains a major challenge in the media industry. Strengthening gender-ethical journalism and fighting discrimination, including discrimination in the workplace in terms of pay and conditions, as well as the eradication of harassment and violence against women journalists are a key to the success of quality journalism. Guidelines, activities and projects aimed at strengthening the position of women in the media and promoting best practices in gender equality should be specifically measured and rewarded as indicators of quality journalism.

2.2. Dissemination of quality content

2.2.1. Online platforms and other intermediaries should, having regard to their status of important news sources in the digital environment, support the work of the media in full respect of media independence and without undue influence. All relevant intermediaries that give access to, host and index news and other journalistic content, aggregate such content and enable its searches, or perform any other functions and services related to such content, should continually improve their internal processes and operations in order to identify and promote, including by giving greater prominence in their platforms to, reliable providers of news and quality journalism.

2.2.2. The online platforms' criteria for the visibility, findability and accessibility of content, whether applied by automated processes alone or in combination with human decisions, should not discriminate against individual news sources and should not prevent access to any source of news or other journalistic content based merely on its political or other

orientation. They should also commit to clear rules and procedures for the removal or de-indexing of online content when these measures are provided for by law or by their terms of service, in specific terms and in full respect of the appropriate due process guarantees to safeguard the right to freedom of expression, as provided for in Recommendation CM/Rec(2018)2 of the Committee of Ministers to member State on the roles and responsibilities of internet intermediaries.

2.2.3. Online platforms and media companies should, beyond the minimum legal requirements, operate as transparently as possible, in particular by giving users the tools they need to identify the creators of content and to understand the applicable exemptions provided for cases where disclosure of identity might expose the persons concerned to personal risks or reprisals for their work. The users should also be given appropriate tools to understand the platforms' prioritisation of content, or lack thereof. An understanding of the functioning of algorithms (of platforms and of media companies) affecting access, distribution and prioritisation of content is essential to rebuild trust and healthy relationships with audiences and contributors.

2.2.4. Digital, multi-platform distribution environments and gateways with curated/sponsored content and passive and active filtering to meet user preferences now challenge the access to, and the findability of, quality public service media content. Member states should address these challenges through appropriate, proportionate and harmonised regulatory responses to ensure that public interest media content is universally available, easy to find and recognised as a source of trusted information by the public.

2.3. Transparency and data protection

2.3.1. Online platforms and media are collecting and using an ever-increasing amount of personal data from their users/customers and audiences. Guidelines on how to know, and to correct or delete, information that is being kept about oneself should be easily accessible and understandable to the public, regardless of individual media literacy levels, in line with the applicable international and national privacy and data protection standards and the relevant guidelines on the use of personal data provided for in Recommendation CM/Rec(2018)2.

2.3.2. Organisations collecting personal data and using tracking and profiling mechanisms for commercial purposes should commit to high ethical standards and to the principle of privacy by default, in full respect of the relevant international and national privacy and data protection standards.

2.4. Favourable political and social environment

2.4.1. States should encourage the development of initiatives aimed at assessing the impact of investigative reporting on social changes, in order to raise awareness about the social benefits of investigative journalism and news media and, more generally, quality journalism produced in line with editorial and ethical standards of the profession, and generate wide support for its mission.

2.4.2. Removing obstacles to freedom of expression remains one of the most significant challenges to quality journalism. Politicians and public officials should refrain from taking actions which undermine the independence of the media, such as interfering politically in their operations, stigmatising and discrediting the media or threatening journalists. Such actions have a chilling effect on the right of the media to report freely and lead to self-censorship in relation to criticism of government policy and political figures.

2.4.3. In particular, but not only, during election campaigns, concerted efforts to counter disinformation must receive full support from member states, bearing in mind that civil society (journalists, the media, online platforms, NGOs, etc.) must remain the first shield against information manipulation in democratic societies. As information manipulation feeds off of divisions and tensions, strengthening the resilience and cohesion of societies should be a long-term goal.

3. Education and training – media literacy for the digital age

3.1. Audience engagement with quality journalism

3.1.1. Media and Information Literacy (MIL) initiatives that empower people to critically analyse and produce information, to understand how media functions, how it is funded and regulated, and to understand the ethical implications of media and technology can foster an environment favourable to quality journalism in the digital age. Therefore, MIL initiatives that promote the skills and knowledge required to recognise and value quality journalism, or that illustrate the benefits of quality journalism to various audiences, should receive maximum support by the member states.

3.1.2. Media companies and online platforms and other intermediaries are invited to advance media and information literacy through their policies, strategies and activities by giving maximum visibility to the processes and the resources involved in quality news production and fact-checking. Rewards for quality productions and original reporting should be promoted by member states in order to enhance the understanding of the complexity of production and dissemination of accurate, independent and trustworthy journalism.

3.1.3. Independent public service media have an important social function as a "trusted third party", not just portraying events but also explaining complex situations and changes, being comprehensive and inclusive, allowing the public to distinguish the important from the trivial and highlighting constructive solutions to important challenges.

3.1.4. Clarity about nature of content and distinctions between opinion, promotional/commercial contents and factual information need to inform the ethics of all media actors, in the effort to facilitate access to quality journalism in an increasingly complex media environment.

3.1.5. Rebuilding trust and healthy relationships with (local) audiences can also be achieved through collaborative practices such as hyperlocal online newsrooms and other innovative approaches that enable journalists and the public to work together on issues that are original, relevant and popular. Specific MIL initiatives and training are needed to promote newsroom collaboration, community-building and participatory audience engagement.

3.1.6. Member states should welcome and support independent media initiatives aimed at combating disinformation, re-establish press credibility and self-regulate trust and transparency, especially, but not only, in relation to funding, sources and sponsors, beyond the minimum legal requirements set out in Recommendation CM/Rec(2018)1 on media pluralism and transparency of media ownership.

3.2. Training opportunities for journalists

3.2.1. Media and individuals committed to producing quality journalism should have access to life-long training opportunities and be able to regularly update their skills and knowledge, specifically in relation to their duties and responsibilities in the digital environment.

3.2.2. Specific training opportunities should be made available in the fields of science, health, environment, engineering, and other specialised subjects of public interest, ideally motivating journalism students to acquire skills and theory of journalistic coverage of such fields.

3.2.3. Community media play an important role in training future journalists and in promoting inclusion by meeting the various communicative and media needs of different segments of society. They offer spaces for self-representation to the otherwise 'voiceless' and reflect diverse communities as integral and respected parts of the audience. The exchange of good practices to actively promote intercultural dialogue in diverse societies and across media sectors can also strengthen inclusive quality coverage in the digital environment.

3.2.4. Online audience/comments moderation could become a core asset of professional journalism, provided sufficient investments in training and in resources for managing online news discussions are made by media companies and employers. Research shows potential for constructive debate and a dialogue-oriented attitude when online communities feel they are taken seriously. This could in turn enhance social responsibility and common values central to the functioning of a democratic society.