

Transparency of Media Ownership

Frequently Asked Questions

1. Why is transparency of media ownership necessary?

If we do not know who the owners of media companies are, it is impossible to take steps to address excessive media concentrations and conflicts of interest. For example, prior to amendments in the law requiring disclosure of media ownership in 2011, the leading national broadcasters in Georgia were seen as mouthpieces of government and their real owners were hidden behind offshore companies. In Croatia, the process of privatising the print media from 2000 onwards was rife with corruption scandals with the real ownership structure of the media often hidden behind secret contracts and far-reaching informal agreements involving high-profile individuals. Public knowledge of owners' identities helps to ensure that such abuses of media power can be assessed, publicised, openly debated and even prevented.

Ensuring that such information is collected is also an essential part of government obligations to ensure a diverse and plural media environment, an obligation which stems from the right to freedom of expression and information. In many countries, the legal framework already establishes obligations on government to collect information in order to ensure such diversity and to guard against excessive concentration of ownership. What is being called for here is to ensure that such information is also made publicly available, on the understanding that such public availability of accurate, comprehensive, and up-to-date data on media ownership is an essential component of a democratic media system.

2. Why isn't company law sufficient?

Media companies have to report information to company registers under company law like any other company. There are, however, a series of problems with Company Law:

- » The Information collected is insufficient to determine ownership – not all countries collect beneficial ownership information for instance;
- » The level of transparency that is possible using corporate law is generally very low across Europe – and much lower than transparency via a media regulator which would make pursuing this option a much bigger ask.
- » The information collected is not available to the public (either not at all or only record by record pursuant to payment of a fee) and even where the public does have access to such information it is not easy to pull out all the media companies from the company register due to limited search functions. To find out via a company register who owns a particular media outlet, first one has to know the name of the company that runs the TV channel, newspaper etc. For example, if I want to know who owns Pick TV and do a search in Companies House, I find nothing (of course). If I use a media-specific registry – MAVISE – I can immediately find out it is owned by BskyB and take my investigations further.

- » There are insufficient attempts to verify the information collected, and media-related bodies which in theory should be working to promote plurality and diversity often do not make sure of the data in company registers in a systematic way;
- » Even if company law required beneficial ownership to be disclosed and it was publicly accessible, it would be unlikely that company law would require disclosure of certain pieces of information that are needed for full transparency of the media, for example, interests in other media companies, religious/political affiliation, family affiliation.
- » Although some of our countries surveyed do have some low thresholds in their company law (3%, for example), most have thresholds that are far too high for transparency – even the new UK proposals on disclosure of beneficial owners proposes 25% as the minimum threshold. Why would company regulators want to introduce provisions that are more restrictive just to suit media transparency when the media will constitute a tiny proportion of registered companies?
- » Current practice across Europe would indicate that there is already widespread acceptance that the media should be subject to more stringent reporting requirements than other companies. In all the countries we surveyed, some media (usually broadcast) are subject to more stringent reporting requirements than other companies. In 10 of those countries, print media are required to submit information to a media authority, with the level of disclosure being quite detailed in a handful of them (in a few cases revealing ownership according to our minimum standards).

So whilst company registers play an important role in the regulation of the business sector in general, they have proven insufficient to ensure that the public is able to know who is really behind any given media outlet.

3. Haven't various governments now committed to opening up beneficial ownership information?

There is a lot of discussion about the need to collect and make public beneficial ownership information but to date there are no commonly agreed standards or binding commitments, and whilst this may change in the next few years, the steps taken so far are insufficient to guarantee access to this information about the media in most countries.

An example of the commitments is that made in June 2013 by members of the G8 Group (Canada, France, Germany, Italy, Japan, Russia, United Kingdom and the United States) adopted a caveat-filled declaration on preventing "the misuse of companies and legal arrangements" which recognised the value of making beneficial ownership information available "to law enforcement, tax administrations and other relevant authorities including, as appropriate, financial intelligence units." G8 member countries then have to adopt action plans as to how this commitment will be implemented.

To date only the UK has included collection of beneficial ownership data in its action plan. Current initiatives to require disclosure of beneficial owners of companies will see the information held in a registry maintained by Companies House (in the UK) "where it will be accessible to law enforcement agencies and tax authorities." There is still a measure of uncertainty over whether public access to the full data set will be granted.

Other initiatives to follow include the EU's Anti-Money Laundering Directive, which is still under negotiation but does include proposed provisions on collecting and publishing beneficial

ownership information.

4. Why do we need legislation on this matter, instead of a self-regulatory solution?

Many media operations in many countries are quite ready to be open about who their owners are. There are, on the other hand, still too many media outlets in countries across the wider Europe, which do not make such information public. Investigations by investigative journalists have revealed close connections between media and political and business interests. Self-regulation has proved not to be effective in such cases and hence the need for the public to have better information about who really lies behind the media is driving these recommendations.

5. Why bring in an oversight body? Why not just require self-publication of this information by media companies on their websites?

The recommendations call on an independent oversight body (media authority or similar) both to collect the data from media companies and to publish this information on a publicly available website.

This oversight body will be able to play a role in ensuring that the data is reported and will be empowered to take action if there is a failure to report the required data. In this way, the public has a greater certainty of being able to access comprehensive and up to date information, and has the advantage of having it all in one place.

6. Doesn't bringing in a media regulator threaten media freedom?


There is no proposed regulation of the media and there will be no requirement for a media outlet to be registered in order to function. This is a simple reporting of information to a body which will therefore be able to verify that the publication obligations are being complied with.

We propose that the oversight body has the power to sanction non-compliance, but this sanction should not include being able to shut down the media outlet. There is no suggestion that the reporting requirements or the sanctions will create an opportunity to interfere in the editorial independence of the media outlet, nor indeed to control who the owners are, merely to permit the public to know who the owners are.

A further benefit of the oversight body is that it can compile the information and publish it in one place (on a website and possibly also a printed register which can be consulted by the public), thereby making it easier for members of the public to access this data.

7. Still, isn't there a danger that such provisions could be used in non-democratic countries to intimidate media owners whose media disseminate unpopular views?

If the recommendations are followed correctly, then this should not be an issue. It is certainly possible that authoritarian, autocratic, anti-democratic regimes which are alien to media freedom could find a way to use the pretext of ownership transparency to impose new regulations on the media, and this is something which would need to be guarded against. At the same time, such regimes are likely to find such mechanisms in any case, and the



possibility of such abuse is not a sufficient counter argument for denying the public access to basic information about who the owners of the media are in a large number of other democratic countries across Europe.

8. Broadcast media already report ownership information when applying for a licence but, in most countries, print media has traditionally not been subject to any reporting requirements beyond company law. How can you justify the inclusion of print and online media now?

Traditionally, broadcast media have had to supply certain information in order to obtain broadcast licences. This has not always been made public, something being called for now.

With the increasing convergence of media (print media are on line and are broadcasting via videos) such a division is hard to justify when assessing the fundamental need which is for the public to know which persons and companies are shaping the news.

The requirement to report ownership information to a media authority or directly to the public is simply an extension of the reporting requirements that print and online media companies will already have to comply with under corporate law. If digital technology is used to collect and manage this information, our research found this is not burdensome at all and can bring benefits for the media.

None of the print media interviewed in any country expressed any concern about the principle of reporting ownership information to the public or to a media authority; transparency of media ownership was generally felt to be beneficial since it prevents corruption (a big issue in some countries), demonstrates the media outlet's independence and increases the trust of the population in the media.

9. How do you define what media are covered? Would you include, for example, teleshopping channels and media outlets with a tiny readership/audience?

It is important not to distinguish between the content of the media which have to make their ownership transparent. Indeed, it may be as important for some members of the public to know who is behind a teleshopping channel, given the influence they can have on the consumer market, as to know who is behind analysis of the latest political intrigues in government.

With respect to audience size, it is reasonable to have a cut-off point, something which most national legal regimes have when defining what constitutes a "media" outlet.

10. What do you mean by online media? Wouldn't that include social network sites, bloggers etc?

It is essential to have a reasonable definition of what is a media outlet. There are various formulas for achieving this contained in existing national legislation. They include criteria such as audience size (some bloggers have more readers than traditional print media) and volume of advertising revenue. Whether the outlet is registered as a company (legal person) is another consideration, and helps draw the line between exercise of freedom of expression and running a business activity.

11. How do we decide which jurisdiction trans-frontier media are covered by? Isn't there a danger that they may be subject to double jurisdiction?

The reporting should take place in the country in which the legal entity is registered, regardless of where it is viewed or received or accessed by the Internet. Hence the key criterion will be that a company which is registered in the company register of a country will be required to report in that country.

If the company has legal entities which are affiliated with it in another country and which are involved in media activity, they will be required to report in that second country. This way it will be possible to ensure collection of data on the complex web of media ownership across multiple countries.

12. Will I be able to access all this information from a central database?

That is not currently possible although if the system is implemented in multiple countries using a consistent data structure and unique identifiers for each company, it should be relatively easy to combine all the information into one database.

The Council of Europe has a database called MAVISE which could be adapted for this purpose if the information were available.

13. Can't the EU harmonise national laws on transparency of media ownership?

It would be possible for the EU to adopt a directive on this. This is something we are currently discussing with key actors in the Parliament and Commission in Brussels. Given the European Parliament Elections in 2014, it will not be until the next legislative term that such a Directive would go through. We believe it's important to make progress country by country, and develop standards and best practices from the ground up in advance of adopting a Directive.


14. Why do we need thresholds for disclosure – why shouldn't all shareholdings / changes in shareholding be reported?

These recommendations take a reasonableness approach. If an owner holds more than 5% of the share in a company then it is reasonable to expect the company to know that, to be able to gather and report this information.

At the same time, this avoids the situation where there are many small shareholders who could be buying and selling shares on a regular basis, something which it would be more burdensome to track.

15. Won't these extra reporting requirements be onerous and expensive for a media outlet, especially in these in tough economic times?

Much of the information which is required to be reported is already held by the media outlets. Indeed, a significant percentage of it will already be reported to other bodies such as the company registers, and the remainder is not unduly burdensome to collect, something which has been demonstrated in countries which already have such reporting requirements. The legal requirements in countries which include Austria, Georgia, and Norway have been adopted by



lawmakers who have determined that there is a public need to have such information in the public domain.

So whilst there is some burden on the companies who have to do the reporting, this obligation is proportionate to the benefits in a democratic society of ensuring that accurate, comprehensive, and up-to-date data on media ownership is available.

With use of digital technology, reporting ownership information need not present a significant burden to the media. Once the necessary internal systems have been set up, the submission process can be very smooth and relatively quick if the submission of data is done online.

Our research found that annual reporting to media authorities takes anything between four and eight hours and updating information during the year can take between 5 minutes and one hour per form. Where information has to be submitted directly to the public, this can also be done very quickly if the same form used for online submission is uploaded directly to the media outlet's website. A large media company in Austria, with a workforce of 3000 staff, estimates it takes just 10% of one full time person to maintain up-to-date ownership information online.


In the case of large media outlets, departments with specialist skills and knowledge, such as legal or business departments, tend to fulfil the statutory reporting obligations. They have streamlined systems and, particularly where submissions are made online, reporting ownership information is straightforward. It can be more challenging for smaller media outlets where senior managers, who lack time and relevant skills, are responsible for submitting the information but again, once online systems are established, it is still not very time consuming. In contrast, where paper forms are still used, it does require more work both to submit the information and to upload it to the media's website if they publicise ownership information.

In countries where the law requires shareholders themselves to report the information as the media outlet does not have to spend time monitoring this information but can be notified directly by the media authority when a shareholder reports a change of shareholding. If this is all done online and the media authority sets up systems that automatically copy in the relevant media outlet when they receive a notification from a shareholder, then the time burden is negligible. The information can then be uploaded to the media outlet's website in a matter of minutes.

16. Won't it cost a lot to run independent media authorities with sufficient resources to monitor and supervise compliance with reporting requirements, particularly if the numerous small print media outlets are included? Who will pay for this?

There are two main costs for the independent media authority. The first is to set up and maintain the publicly available database. With modern technologies this is a relatively low cost and can be automatically updated by the media companies doing the reporting.

A more significant cost is the supervision and initiating procedures for sanctions for non-reporting where this should occur. As with many other aspects of human rights, there are costs associated with oversight and ensuring compliance, costs which would need to be borne by the taxpayer. In this case, the right to freedom of expression and information is at play, the right to be informed about who is behind the news, and it seems reasonable to pay for a relatively modest body to ensure that the public has such information. There is a far greater



societal cost of not having information about the running of media, something which can lead to concentration of ownership in the hands of those linked to political and private business interests.

17. What about offshore companies? How will these be covered by such disclosure requirements?

To the extent that an offshore company is owner of a media company, then this information should be reported. There will be a burden on the media company to endeavour to identify who the ultimate or beneficial owners are behind the offshore company, although if they can demonstrate that this is impossible, then they can inform the media regulator of this. In such cases the public will at least know that the media company is owned by offshore companies and that it has asserted that it does not hold more information. It will be for public debate to assess how credible such an assertion is.

In due course we can expect to see much greater information available from tax havens about who the beneficial owners of their companies are.

18. If media ownership does become transparent, what difference will this make?

Permitting the public to have certain information about the society around them is an essential part of an open democratic system, whether or not it brings immediate changes. Information permits the public to take informed decisions, to participate in debates, and to call for change should they feel moved to do so.


Aside from this individual and society empowerment, making media ownership transparent may not make any measurable difference on the structure of the media field, particularly if there are no issues or problems revealed.

To the extent that the information reveals problems with media ownership (for example, senior politicians are involved in a company which owns a company which owns a series of key media outlets) then it will permit legal remedies, supposing there is regulation of such involvement of, in the case of this example, ministers in media ownership. Similarly, if there are rules limiting concentration of media ownership, having full ownership information might reveal a complex web of companies which ultimately concentrate media ownership in a few hands. Transparency helps ensure that the law is followed and that the public can participate in shaping future laws if current rules are proving insufficient. Independent journalists and media freedom groups will be able to use the information in their campaigns, and media regulators and law enforcement can take action if needs be.

More broadly, if the public is aware that certain interests or sources of financing are behind certain media, that facilitates the public knowing where the media is coming from, what spin is being put on news, what is and is not being reported on. It strengthens debate about the way the media is operating.

19. Isn't the disclosure of information such as an owner's address, contact details and citizenship of owners an infringement of data protection laws?

No. In the first place because data protection legislation permits a law to require that certain



information be made public when pursuing a legitimate interest. In the case of company registers, much of this information is already accessible (although sometimes only following payment of a fee) and this is deemed acceptable in order that society knows who is involved in the running companies. The logic here is that society permits companies to operate and in return exercises various controls over them (ensuring compliance with fiscal, labour, health, safety, and a whole host of other laws). In order to exercise those controls and in order for other businesses to know who is running the companies, such basic information is collected and made available.

When it comes to media companies, there is another compelling societal interest which is knowing who is behind the shaping of media output. Hence to preserve the right to freedom of expression and information, to ensure an open public space which permits a plural debate to take place, it is essential for the public to have information about the owners of media companies. Media owners are putting themselves into the public limelight by choosing to run media operations and cannot then claim the same privacy as another private individual.

Data protection laws will kick in however when it comes to use of the data made public: it would be unacceptable to take the list of media owners and then use it to spam them with advertising about cheap holidays, luxury cars and so forth.


20. Doesn't asking for publication of data on issues such as membership of political parties or religious bodies infringe basic rights such as freedom of opinion or of religion?

In some countries media authorities collect a wide range of information, particularly about those registering broadcast media. This can include data such as the religious affiliation of owners, or other affiliations such as with political parties and trades unions. As the recommendations currently stand, we only call for such data to be released when it is already collected under another law. We believe that if the law requires that owners of media outlets are not senior members of political parties or religious bodies, then the public should also know this information. There is never any need to collect and make public data on someone's personal political or religious views if they do not have a formal role in a political or religious institution, and hence this is not included in the recommendations.

21. Won't these extra reporting requirements be onerous and expensive for a media regulator, especially in these in tough economic times?

Extending reporting of ownership information to all media, including print and online, will clearly increase the amount of work within a media authority. However, our research shows that where online submissions are used, the amount of time needed to supervise ownership reporting is minimal and the time burden ceases to be a problem. In Norway, for example, where all media have had to report ownership information to the Norwegian Media Authority since 1997, the Media Authority estimates that the total staff time spent working on collecting, storing, monitoring and publicising ownership information is approximate 40% of a full-time person for all media in Norway. Use of online submission forms makes managing the information very quick and allows the same information to be uploaded to the media outlet's website very quickly.

Even where information is mainly submitted in hard copy, such as in the UK and Croatia, it



need not be hugely time consuming; Ofcom, the media authority in the UK estimates that the total time taken to manage ownership information is about 3-4 full time staff out of a staff of 820. The Croatian media authority, the Croatian Chamber of Economy (CCE), estimates that it takes 0.5 of a full time position to fulfil its duties with regard to collecting ownership information. The CCE did advise that the process could be significantly streamlined if it all information submissions became digitised.