

A EUROPEAN RISK BAROMETER FOR MEDIA PLURALISM: WHY ASSESS DAMAGE WHEN YOU CAN MAP RISK?

BY PEGGY VALCKE*

The role of government, if any, in assuring media pluralism is complex and contested. In her essay, Professor Valcke describes an indicators-based model, the Media Pluralism Monitor (MPM), for measuring threats to media pluralism in the Member States of the European Union. Although the importance of media pluralism is generally recognized, divergent approaches among the Member States (market vs. public regulation) make a harmonized rule unlikely. The MPM is described as flexible and adaptable to each Member State, not for regulation but as a standardized, neutral tool for collection of data on indicators of media pluralism. It is characterized as a holistic, risk-based analytical framework using six “risk domains,” three “risk areas,” and three types of indicators (a total of 166 quantitative and qualitative indicators) to potentially create a unique, multi-dimensional media pluralism “risk profile” for each State. Professor Valcke notes that while this tool has been available since mid-2009, it has so far had little uptake, and she suggests that absent any new initiatives from the European Commission on this politically sensitive issue, its future is uncertain.

INTRODUCTION

While there is broad consensus in Europe about the importance of media pluralism for democracy and identity formation, there are still widely diverging views on how to regulate the matter. The Member States of the European Union (EU) have different cultural, political, and regulatory traditions – which explains their sometimes contrasting approaches towards media pluralism. But above all, media pluralism itself is a complex and multidimensional concept, which has been interpreted in varying ways in different times, geographies, contexts, and policy circles. This “clash of rationalities” – as Klimkiewicz calls it¹ – is further polarized by the ambiguous impact that recent technological and economic developments have on media pluralism. Not surprisingly (especially in the light of the failed attempt to harmonize national media concentration rules in the 1990s), the

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¹ Beata Klimkiewicz, “Is the Clash of Rationalities Leading Nowhere? Media Pluralism in European Regulatory Policies,” in *Press Freedom and Pluralism in Europe: Concepts and Conditions*, ed. Andrea Czepek, Melanie Hellwig, and Eva Nowak (Bristol: Intellect, 2009).

European Commission has taken a prudent stance on media pluralism in recent years. In its *Working Document* of January 16, 2007, the Commission emphasized that it would not be appropriate to submit a European Community initiative on pluralism, but at the same time acknowledged a need to closely monitor the situation. This essay elaborates on the instrument that has been developed for such monitoring exercises: the EU Media Pluralism Monitor, which functions like a barometer and starts from a risk-based approach. It discusses the monitor's potential and limits in light of the various politico-cultural, economic, legal, and regulatory challenges that confront Europeans in the area of media pluralism. The essay wishes to stimulate discussion about the "European" approach towards measuring media pluralism in order to contrast it with solutions envisaged in other parts of the world. How is the choice for adopting a holistic and risk-based analytical framework perceived in other regions of the world? How does its interpretation of media pluralism fit with the normative approaches in the United States or other parts of the world? Are the underlying assumptions and methods also applicable outside Europe? Is it feasible to search for universal criteria to measure media pluralism and to develop tools for empirical assessments of diversity in the media sector, without jeopardizing the multi-faceted and normative character of media pluralism?²

THE CONTEXT OF THE EUROPEAN MEDIA PLURALISM MONITOR

Challenges for Regulating Media Pluralism in the EU

When taking initiatives in the domain of media pluralism, the European Union is faced with a number of challenges. First, the various Member States – characterized by different cultural, political, and regulatory traditions – have adopted diverging politico-cultural and normative approaches towards media pluralism. On both ends of the scale, we find the following two major normative approaches that come to the fore in national and European policy discourses, as well as social science literature: the neo-liberal marketplace of ideas model, on the one hand, and the neo-Habermasian public sphere approach, which contains the notion of unifying public discourse, on the other hand. Both models rely on very different rationales when interpreting diversity and pluralism as media policy goals. While the former is based on competition and freedom of choice, the latter emphasizes a broader defense of "principled pluralism" – an attempt to serve the society in its entirety with various political views and cultural values.³ This dichotomy can also be understood in terms of regulatory approaches to media diversity: the competition or market approach, endorsing

² Please note that also within the European context, the monitor as such does not aim to harmonize policies in the area of media pluralism, despite the fact that it applies identical sets of indicators to all EU Member States (thereby ensuring comparability of results throughout the EU). The study did not intend to offer a harmonized definition of media pluralism, nor did it impose a specific normative approach. As stressed by recent academic literature, the concept of media pluralism in itself is an object of political controversy, subject to continuous a process of social negotiation, so attempts to reach "pluralistic consensus" within the EU are often regarded as suspicious and undesirable. Kari Karppinen, "Making a Difference to Media Pluralism: A Critique of the Pluralistic Consensus in European Media Policy," in *Reclaiming the Media: Communication Rights and Democratic Media Roles*, ed. Bart Cammaerts and Nico Carpentier, ECREA Series (Bristol, UK & Portland, OR, USA: Intellect, 2009).

³ *Ibid.*, 15.

economic regulation to prevent market failure, and the interventionist or public regulation approach, involving an active media policy.

This “clash of rationalities” is difficult to overcome, and explains, together with the absence of a strong legal basis at the EU level to harmonize or impose any standards in the domain of media freedom and diversity, the strong reluctance from the European Commission to take any legislative action. Whereas the protection of media pluralism has been a recurrent concern of the European Parliament, inviting the Commission on several occasions to propose concrete measures to safeguard media pluralism,⁴ the Commission has taken a much more prudent stance on the issue, especially since the failed attempt to launch a harmonization directive on pluralism and media ownership in the mid-1990s.⁵ The matter was so divisive that the Commission never formally adopted a proposal.⁶ This demonstrated the need for a balanced and realistic approach that would take into account the specificities of media markets in the various Member States. The successive enlargements of the European Union, during which Central and Eastern European countries – characterized by relatively young media markets and intense media reforms – have joined, has further diminished the feasibility and appropriateness of a uniform approach to media pluralism.

A third complicating factor is the ambiguous impact of recent technological and economic developments on media pluralism. The rise of the Internet, the emergence of wireless technologies, the arrival of digital convergence, the proliferation of devices to access and consume media content, as well as the unprecedented lowering of the threshold for media content production, provide the capabilities and opportunities to overcome existing constraints on pluralism. (For instance, to overcome constraints created by supply limitations in traditional media, to improve minority and cultural group representation and communication ability, to increase the number of information sources and provide alternative viewpoints, etc.) However, these new technologies and the media transformations they produce have also triggered renewed concerns over media pluralism. Threats resulting from spectrum scarcity are replaced by risks relating to digital gateways,⁷ Internet filtering (especially triggered by massive Internet censorship in some parts of the world – think of the “Great

⁴ European Parliament, Resolution of 16 September 1992 on Media Concentration and Diversity of Opinions, O.J. [1992] C 284/44; Resolution of 27 October 1994 on Concentration of the Media and Pluralism, O.J. [1994] C 323/157; Resolution of 15 June 1995 on Pluralism and Media Concentration, O.J. [1995] C166/133; Resolution of 22 April 2004 on the Risks of Violation, in the EU and especially in Italy, of Freedom of Expression and Information, O.J. [2004] C 104 E/1026; Resolution of 25 September 2008 on Concentration and Pluralism in the Media in the European Union, O.J. [2010] C 8 E/85; Resolution of 10 March 2011 on Media Law in Hungary.

⁵ European Commission. Green Paper on Pluralism and Media Concentration in the Internal Market: An Assessment of the Need for Community Action, COM (92) 480 final, 23 December 1992.

⁶ Lesley Hitchens, “Media Ownership and Control: A European Approach,” *Modern Law Review* 57, no.4 (1994): 585-601; Petros Iosifides, “Pluralism and Media Concentration Policy in the European Union,” *Javnost – The Public* 4, no. 1 (1997): 85-104; Gillian Doyle, “From ‘Pluralism’ to ‘Ownership’: Europe’s Emergent Policy on Media Concentrations Navigates the Doldrums,” *Journal of Information, Law & Technology* 3, no. 3 (1997), accessed Aug. 22, 2011, http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/1997_3/doyle; Gillian Doyle, “Towards a Pan-European Directive? From ‘Concentrations and Pluralism’ to ‘Media Ownership,’” *Communications Law* 3, no. 1 (1998): 11-15.

⁷ Natali Helberger, *Controlling Access to Content: Regulating Conditional Access in Digital Broadcasting*, Information Law Series 15 (Den Haag: Kluwer Law International, 2005).

Firewall of China”), and the often hidden manipulation by search engines.⁸ Technologies may increase the ability of individuals to look for and acquire content of their choice (and even to contribute content themselves), but provide no guarantee that they will actually select and consume pluralistic content.⁹ A steady stream of jeremiads about individualization and fragmentation of the public sphere, the potential of the Internet to promote “cybercascades” of like-minded opinions that foster and enflame anti-democratic discourse,¹⁰ and recently the detrimental impact of user-generated content on professional journalism (attacking the rise of the “amateur”)¹¹ urge caution in revising media policies.

The European Commission’s Three-Step Approach

The challenges with which the EU is confronted in the area of media pluralism explain why, in recent years, the focus of the European Commission’s strategy for media pluralism has shifted from *regulating* to *monitoring*.¹² During the Barroso I mandate, Commissioner Reding, responsible for Information Society and Media, and Vice-President Wallström, responsible for Institutional Relations and Communication Strategy, launched their “three-step approach” for advancing the debate on media pluralism across the European Union.

Step 1 was the publication on January 16, 2007 of a Commission Staff Working Paper on Media Pluralism in the Member States of the European Union.¹³ The Working Paper provides a concise discussion of the issues raised by media pluralism and the first survey of Member States, audiovisual and print media markets. Step 2 was an independent study to define and test concrete and objective indicators for assessing media pluralism in the EU Member States. The results of this study, including a prototype for a *Media Pluralism Monitor*, were presented to the public in June 2009 and are published on the Commission’s website.¹⁴ Step 3 envisaged the adoption of a soft law instrument, a Commission Communication on indicators for media pluralism in EU Member States, and a follow up study which would systematically apply the media pluralism indicators to all EU Member States in order to measure the health of Europe’s media pluralism. With the change of the Commission’s mandate mid-2009, the operationalization of the third step is currently still under consideration.

⁸ Nico van Eijk, “Search Engines: Seek and Ye Shall Find? The Position of Search Engines in Law,” IRIS plus 2006-7, Strasbourg: European Audiovisual Observatory, accessed Aug. 22, 2011, http://www.obs.coe.int/oea_publ/iris/iris_plus/iplus2_2006.pdf.

⁹ Natali, Helberger, Andrea Leurdijk, and Sylvain de Munck, “User Generated Diversity: Some Reflections on How to Improve the Quality of Amateur Productions,” *Communications & Strategies* 77, no. 1 (2010): 55-77.

¹⁰ Cass Sunstein, *Republic.com* (Princeton and Oxford: Princeton University Press, 2001).

¹¹ See for instance Andrew Keen, *The Cult of the Amateur: How Today’s Internet is Killing Our Culture and Assaulting Our Economy* (London and Boston: Nicholas Brealey Publishing, 2007).

¹² The idea of increased monitoring actually sprang out of a workshop session on media pluralism, organized at the Liverpool Audiovisual Conference in September 2005 in the run-up to the new Audiovisual Media Services Directive (which was adopted in 2007).

¹³ European Commission, Commission Staff Working Paper: Media Pluralism in the Member States of the European Union, 16 January 2007, SEC (2007) 32.

¹⁴ ICRI, JIBS, CEU, Ernst & Young, et al., “Indicators for Media Pluralism in the Member States: Towards a Risk-Based Approach,” Final Report and Annexes: User Guide, MPM, Country Reports (Brussels: European Commission, 2009), accessed May 30, 2011, http://ec.europa.eu/information_society/media_taskforce/pluralism/study/index_en.htm.

The rationale of developing monitoring systems that enhance the auditability or “quantifiability” of media pluralism lies in the need for more transparency and concrete data in a fast-developing media landscape. There is a strong, political appreciation that the traditional approach to media pluralism based on ownership control, linked to share of voice, will no longer be sufficient. An approach based exclusively on ownership assumes that the industry is static, rather than dynamic. According to some, it is even hard to define the media sector these days, given the arrival of new players such as search engines. Towards the end of her previous mandate, Commissioner Reding made it very clear that she considered a harmonizing directive on ownership inappropriate in a period of structural change.¹⁵ The Commission’s intention toward the study of indicators for media pluralism was therefore to invest in a robust and multi-faceted monitoring system that may equip policy makers and regulatory authorities with the tools necessary to detect and manage societal risks in this area and provide them with a stronger evidentiary basis to define priorities and actions for improving media pluralism. The following sections will present and discuss more in-depth the *Media Pluralism Monitor* (or MPM), which was developed throughout the study.

PRESENTATION OF THE EUROPEAN MEDIA PLURALISM MONITOR

General Description

SCORES	RESULTS
Basic Domain	Report Basic Domain
Pluralism ownership & control	Pluralism of ownership & control
Pluralism media types & genres	Pluralism of media types & genres
Political pluralism	Political pluralism
Cultural pluralism	Cultural pluralism
Geographical pluralism	Geographical pluralism
General Report	
Country	country
Population	large
GDP/Capita	high
Result for a country with large population and a high GDP/Capita	

The European Media Pluralism Monitor (MPM)

¹⁵ Viviane Reding, “Europe’s Magazines and the New Media – Way Ahead,” Speech delivered at the FAEP Gala Reception *Empowering Citizens – The Magazine Media*, Brussels, October 7, 2009, SPEECH/09/452.

The Multi-Disciplinary, Holistic Approach: In its three-step approach towards media pluralism, the European Commission describes media pluralism as a multi-faceted concept that embraces a number of aspects, such as diversity of ownership, variety in the sources of information, and the range of contents available in the different Member States. It advocates a multi-disciplinary approach that takes into account a wide range of factors and which combines indicators covering pertinent legal, economic, and socio-cultural considerations.¹⁶

Consequently, starting from the observation that there are also fundamental similarities in media pluralism standards put forward especially by the European Parliament and the Council of Europe, the Media Pluralism Monitor adopts a broad notion of media pluralism inspired by the policy documents of those institutions. Following those documents, it takes the view that in mature democracies, media pluralism encompasses political, cultural, geographical, structural, and content-related dimensions. It also recognizes that media of all types – public service, commercial, and community media – play important roles in creating pluralism and that a range of media types and channels (or titles) are a prerequisite for providing pluralism.

The MPM combines three sets of indicators, drawn from law, economics, and social science:

- 1) Legal indicators assessing the presence and effectiveness of policies and legal instruments that support pluralism in Member States;
- 2) Socio-demographic indicators assessing the range of media available to citizens in different Member States in light of socio-demographic factors like geographic location, social class, age, and gender, and evaluating different types of media markets from an end-user perspective;
- 3) Economic indicators assessing the range and diversity of media, looking at the supply side and economic performance of the media, such as the number of media companies and concentration and profitability ratios.

Furthermore, the indicators cover the various stages of the media value chain, in particular supply, distribution, and use.

In other words the monitor takes a holistic approach, not only measuring ownership and concentration, but also other restrictive forces, and examining not only external pluralism but also aspects of internal pluralism. While ensuring that indicators provide the most objective basis possible, it endeavors to combine quantitative and qualitative indicators in order to account for the various aspects of media pluralism. In response to the criticism (voiced especially in the United States following the FCC's proposal for a diversity index¹⁷) that reducing pluralism to quantitative measurements fails to account for the complexities of the media landscape and substitutes

¹⁶ European Commission, Commission Staff Working Paper: Media Pluralism in the Member States of the European Union.

¹⁷ Kevin Howley, "Diversity, Localism and the Public Interest: The Politics of Assessing Media Performance," *International Journal of Media and Cultural Politics* 1, no. 1 (2005): 103-106.

mechanical devices for serious analysis of media power, it also leaves room for qualitative analysis of results.

The Risk-Based Approach: A second important feature of the MPM that distinguishes it from existing monitoring mechanisms¹⁸ is that it adopts a risk-based approach for assessing pluralism across the Member States. The preference for such an approach over alternative systems based on, for instance, achievements, objectives, best practices or benchmarks, has to do with the purpose for which the MPM was developed – namely to find approaches that will “define and help manage the societal threat to pluralism.” It also links to the broader regulatory trend towards evidence-based and risk-based regulation, which fits the European Union’s regulation discourse of recent years.¹⁹ At the stakeholder workshop in June 2009 where the results of the study were presented, the Commission referred to the advantages of risk-based regulation, in particular that it seeks to ensure that regulation is applied only where it is needed.²⁰

The MPM is consequently built as an instrument that detects risks to pluralism and shows the underlying causes, so that policy makers can take informed decisions when setting priorities and shaping policies. The goal of the MPM is not to regulate, but to collect data in a more systematic way; it offers a powerful instrument for guiding policy initiatives towards a more evidence-based and risk-based approach, ensuring that regulation is applied only where it is needed, hence avoiding overregulation. A risk-based approach was also considered more appropriate to capture the breadth of issues relating to media pluralism, and better suited for an application of the MPM at the level of individual Member States. In contrast to a benchmarking approach, the MPM does not require a simultaneous EU-wide implementation.

Consequently, the MPM attempts to incorporate strategies for risk detection and management. It places the identified indicators (which will be described further) in a risk-analytical framework, with values indicating more or less the endangerment of pluralism. This approach had a fundamental impact on the design of the MPM by shaping the reflection on the formulation of indicators. The ways in which indicators are formulated, measured, and evaluated always start from the question: What situation could possibly represent *risks* or *threats* to media pluralism?

This does not imply that opportunities for enhanced media pluralism, resulting for instance from new technologies, have been disregarded. The MPM includes indicators on, for example, broadband coverage (which can be seen as offering a new distribution channel) and on-demand services (which increase the scope for diversity and narrow-interest content). In line with the methodology and

¹⁸ For instance, see the IREX Media Sustainability Index (<http://www.irex.org/msi/>; accessed May 30, 2011) or the Dutch Media Monitor (<http://www.mediamonitor.nl/>; accessed May 30, 2011). See also ICRI et al. “Indicators for Media Pluralism in the Member States, Final Report” 14.

¹⁹ For more information, see: http://ec.europa.eu/governance/better_regulation/index_en.htm (accessed June 10, 2011).

²⁰ Jean Eric de Cockborne, “Opening Remarks at the Stakeholder Workshop of the Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach,” Brussels, June 8, 2009. See also Eric Karstens. “Risk Management in Media Policy: The Challenges of Diversity,” *Magazine of the European Journalism Centre*, January 11, 2008, accessed Aug. 22, 2011, http://www.ejc.net/magazine/article/risk_management_in_media_policy_the_challenges_of_diversity/.

format used for the other indicators, these indicators have also been formulated in terms of threats – low broadband coverage representing high risk, for instance, which in this case is synonymous to a lost opportunity. This approach is fully compatible with the acknowledgment of the positive contribution that may derive from new media technologies and platforms. Given the need for sufficient evidentiary means to properly assess their role, the MPM takes a cautious rather than a conjectural approach to their inclusion. However, prudence in this respect, which is predicated on the volatility of these markets and the lack of adequate data, both of which make an assessment of their contribution to pluralism difficult, does not imply ignorance. To the contrary, in order to safeguard the robustness and completeness of the MPM, regular updates are necessary and must be taken into account in designing it.

The Flexible Approach: A third important feature of the MPM is its flexible and evolving nature. The MPM was developed as a tool that allows for regular updates and adjustments necessitated by, on the one hand, economic and technological evolutions, and, on the other hand, new solutions to normative dilemmas. This implies that in the future, new risks and indicators can be added to the MPM (for example, in the area of new media, search engines, etc.), or old risks and indicators removed from it.

The Standardized Approach: How do you reconcile the wish to have a Union-standardized tool (to ensure consistency and comparability of results throughout the EU) and the need to take into account national specificities in the Member States? As a starting point, the MPM offers a measurement tool that is applicable in an identical manner in all EU Member States, even though these countries may represent different profiles in terms of market size, technological development, presence of minorities, cultural and political traditions, etc. It uses the same set of risks and indicators, and applies in principle the same border values to all Member States.

However, given the important impact of, for instance, the size and wealth of a nation on its media market structures and regulatory possibilities for protecting and promoting media diversity,²¹ users of the MPM are offered two mechanisms to account for national specificities. First, the “ex-ante profiling” functionality enables the population size of the country concerned (large versus small)²² and its GDP per capita (high versus low)²³ to be determined before the actual scoring of indicators begins. This will result in an automatic adjustment of border values for a number of (predominantly economic) indicators of risks of concentration and limitations to the range of media types for these

²¹ The number of major firms in a country and range of media types are directly related to market size, indicated by the size of population, as well as the wealth of the market, indicated by GDP per capita. Nations with smaller populations and/or a lower GDP per capita will normally have fewer media firms and a more limited range of media types.

²² Small nations are those with populations below 20 million. Large nations are those with population of more than 20 million.

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

nations.²⁴ Second, other variables affecting the level of media pluralism and which differ from Member State to Member State, such as degrees of heterogeneity among the population in terms of ethnic and linguistic groups, the most popular means of TV reception, or dominant political viewpoints, are taken into account via an “ex–post interpretation” exercise (see below).

The Neutral Approach (“Diagnosis, No Therapy”): However, while the MPM urges the application of the same analytical framework in all Member States to ensure comparability of the results obtained, it is not a call for harmonization of policies in this area. The study throughout which the monitor was developed clearly had *not* as its objective a proposal for a harmonized definition of media pluralism, nor to formulate a specific normative approach. Given the far-reaching socio-cultural, economic and political importance of the media for the functioning of European democracies, the sensitive matter of how to protect media pluralism is ultimately left to the discretion of Member States and their authorities who, in defining their nation’s risk appetite,²⁵ are free to consider market-based, as well as regulatory, approaches to diversity.

The Monitor deliberately offers a diagnostic, not a prescriptive, tool on the basis of established risk management strategies. Its purpose is to facilitate the collection of empirical data on various risks for media pluralism given the particular economic, socio-demographic, and legal situation in each Member State. Although producing useful pointers towards the areas in which action is needed, the tool as such does not prescribe specific remedies or actions for particular risk profiles.

The Practical Approach: Finally, the MPM presents itself as a user-friendly and practicable tool. In order to avoid over-complexity, only the most relevant indicators were ultimately integrated into the MPM.²⁶ This selection was done on the basis of the SMART-test, which is commonly used in the design and evaluation of indicators.²⁷ The test assesses whether indicators are *specific* (indicators have a sufficiently precise meaning and direct link with media pluralism), *measurable* (they can be expressed in a quantitative or qualitative score), *achievable/attainable* (data can be obtained at reasonable cost) and *relevant/realistic* (reliable border values can be defined on which there is broad consensus).²⁸

²⁴ When a nation is, for instance, designated as being small and with low GDP per capita, the border values of the indicators of concentration and media range threats are increased by one-third (or multiplied by 1.33), thus accounting for the fact that their small size and low GDP per capita would be expected to produce a greater level of concentration and a lower range of media.

²⁵ A nation’s “risk appetite” or “risk tolerance” refers to the amount of risk that one is willing to take on in pursuit of value.

²⁶ See for example <http://www.unescobkk.org/index.php?id=2655> (accessed June 10, 2011) for more information on using and developing indicators in relation to the cultural diversity programming lens.

²⁷ The “T” in SMART stands for *time-bound*, i.e. data can be collected frequently enough to inform progress and influence decisions. As the MPM has been designed to provide a snapshot of the national situation at a given moment in time, a detailed assessment of the time principle has not been carried out.

²⁸ Indicators that did not pass the SMART-test are called “second tier indicators” in the study and include, for instance, concentration in employment for a given sector (measuring the number of employees in Top4, or alternatively Top8, firms and calculating employment share per owner) and advertising and time use concentration by sector and all media (both of which were left out because the availability of data required to measure the indicator cannot always be granted in some countries). They are described in Chapter 6.5 of the Final Report.

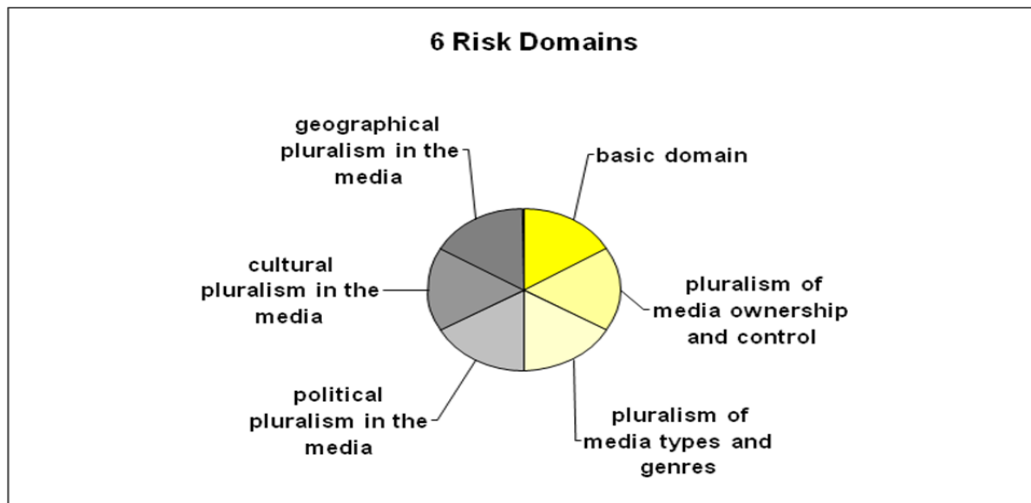
Also for reasons of practicability, the MPM relies on quantitative measurements to the largest possible extent. Where qualitative assessments are required, for instance in the evaluation of the effective implementation of particular regulatory safeguards, the user of the MPM is guided through transparent questionnaires or simple scenarios, enabling him to operate the MPM without major errors. A detailed User Guide has been drafted to enhance practicability.²⁹

Structure of the Monitor

The MPM is structured in six risk domains, each containing a varying number of risks, and three risk areas. As mentioned earlier, it combines three types of indicators (with a total of 166 indicators), measuring them on the basis of three border values.

Six Risk Domains: The 166 indicators used to assess risks for media pluralism in a Member State are grouped into the following *risk domains*: pluralism of media ownership and/or control; pluralism of types and genres; cultural diversity in the media; political pluralism in the media; and diversity of local and regional interests or geographical pluralism. These domains refer to those dimensions of media pluralism that are most commonly accepted as its constituting elements in policy documents and in the academic literature. A sixth risk domain, the basic domain, consists of indicators assessing general factors that have an important impact on pluralism and that are not confined to a single aspect of media pluralism, notably freedom of expression, independent supervision and media literacy.

Within every domain, relevant risks were selected on the basis of a combination of traditional methods of risk identification (objectives-based) and risk assessment (educated opinions and literature review) with sector-specific methods. These risks are described in more detail in the following section.



The six risk domains.

²⁹ The User Guide is available from the Commission's website and also in book form; ICRI et al. "Indicators for Media Pluralism in the Member States, User Guide."

Three Types of Indicators: Each risk is analyzed by measuring a set of indicators on socio-demographic factors, the economic situation and/or the regulatory context. This corresponds with the following three types of indicators:

- Economic indicators (E): indicators on the economics of the media, assessing the number of media companies in a particular Member State (or within a linguistic region within a Member State), the number of newspapers and magazines per head of population, comparable indicators in relation to electronic media, together with ratios or other relevant indicators that would convey an understanding of the health of the sector, including profitability.
- Socio-demographic indicators (S): indicators on the socio-demographic situation, assessing the range of media available to citizens in different Member States and the socio-demographic factors having an impact on that range (including, for instance, geographic factors or the existence of professional associations of media workers/journalists).
- Legal indicators (L): indicators on the legal and regulatory context, assessing the presence and effective implementation of policies and legal instruments that promote media pluralism; these include a wide range of measures, going beyond the scope of ownership restrictions and ranging from state regulations and state policy measures toward co-regulation to self-regulatory instruments (at both the sector and company level).

Three Risk Areas: The three types of indicators cover three different areas that correspond with the major levels in the media value chain:

- Supply (S): the structures, processes, and outcomes of the production and packaging of content for various media types.
- Distribution (D): any mechanism, means, or network used for distributing media content to the public, such as – in the case of print media – individual distribution systems, retail points, and postal services; or – in the case of electronic media – electronic communication networks, services, and associated facilities.
- Use (U): citizens' abilities and skills to access and actually consume or actively use media; hence, this area includes the notion of accessibility of the media by all segments of society and looks at issues such as media literacy and digital skills, and the availability of subtitling and audio-description services.

Three Border Values: For each individual indicator, border values have been defined. These border values are measurement units and are expressed quantitatively (numbers, percentages, fractions, etc.) or qualitatively (assessments). Based on an analysis of national and European policy documents and academic literature, to determine what is commonly perceived as positive or negative situations for media pluralism, border values have been divided into three ranges or zones, reflecting high risk, moderate risk, or low risk. These three ranges are associated with the colors red, orange, and green respectively, to produce the effect of a traffic light.

- High risk (associated with the color red in the Monitor): Threats to media pluralism occur and immediate actions or measures are required in a short time.
- Moderate risk (associated with the color orange in the Monitor): Immediate follow-up is necessary, actions or measures are possibly required, depending on the range between the orange and the red zone.
- Low risk (associated with the color green in the Monitor): Safe zone, no immediate follow-up is required, no immediate actions are required.

DISCUSSION OF RISKS, INDICATORS AND METHODS

The *Inventory of Risks* is listed in the table below.

	RISK
	Basic Domain
B1	Freedom of speech and related rights and freedoms are not sufficiently protected
B2	Insufficiently independent supervision in media sector
B3	Insufficient media (including digital) literacy
	Pluralism of Media Ownership & Control
O1	High ownership concentration in terrestrial television
O2	High ownership concentration in radio
O3	High ownership concentration in newspapers
O4	High ownership concentration in Cable/Satellite/ADSL
O5	High ownership concentration in magazines
O6	High ownership concentration in Internet content provision
O7	High ownership concentration in book publishing
O8	High concentration of cross-media ownership
O9	High vertical concentration
O10	Lack of transparency in ownership structures
	Pluralism of Media Types & Genres
T1	Lack of/under-representation of/dominance of media types
T2	Lack of/under-representation of/dominance of media genres

T3	Lack of sufficient market resources to support range of media
T4	Lack of sufficient resources to support Public Service Media (PSM)
T5	Insufficient engagement of PSM in new media
T6	Insufficient attention paid to public participation
Political Pluralism in the Media	
P1	Political bias in the media
P2	Political bias in the media during election periods campaigns
P3	Excessive politicisation of media ownership/control
P4	Insufficient editorial independence
P5	Insufficient independence of PSM
P6	Insufficient pluralism of news agencies
P7	Insufficient pluralism of distribution systems
P8	Insufficient citizen activity and political impact in online media
Cultural Pluralism in the Media	
C1	Insufficient media representation of European cultures
C2	Insufficient media representation of national culture
C3	Insufficient proportion of independent production
C4	Insufficient proportion of in-house production
C5	Insufficient representation of world cultures
C6	Insufficient representation of the various cultural and social groups in mainstream media content and services
C7	Insufficient representation of the various cultural and social groups in PSM
C8	Insufficient system of minority and community media
C9	Insufficient representation of different cultural and social groups in HR in the media sector
C10	Limited accessibility by disabled people
Geographic Pluralism in the Media	
G1	High centralisation of the national media system
G2	Insufficient system of regional and local media
G3	Insufficient representation of regional and local communities in media content and services

G4	Insufficient representation of regional and local communities in HR in the media sector
G5	Dominance of a limited number of information sources for local issues
G6	Insufficient access to media and distribution systems due to geographic factors

Basic Domain

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

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

Third, media literacy can be considered a crucial element as well, since genuine media pluralism implies that a diverse offering is actually consumed by the public.³¹ In particular when communication means are changing, it is key that citizens are equipped with the necessary skills to locate, evaluate, and utilize information in whatever media form it is offered.³²

³⁰ UNESCO, "Press Freedom: Safety of Journalists and Impunity" (Medellin Report, 2007), accessed Aug. 22, 2011, <http://unesdoc.unesco.org/images/0015/001567/156773e.pdf>, 14.

³¹ Peggy Valcke, *Digitale Diversiteit—Convergentie van Media, Telecommunicatie en Mededingingsrecht* (Brussels: Larcier, 2004), 196; Philip M. Napoli, "Deconstructing the Diversity Principle," *Journal of Communication* 4, no. 7 (1999); Philip M. Napoli, "Rethinking Program Diversity Assessment: An Audience-Centered Approach," *Journal of Media Economics* 4 (1997): 59.

³² On the notion of media literacy, and the various skills and abilities that are required in the modern information society to receive and participate with media in a responsible and informed manner, see for example Sonia Livingstone, "Media Literacy and the Challenge of New Information and Communication Technologies," *Communication Review* 1, no. 7

Hence, the main threats that were identified in the basic domain relating to those three topics are:

- Insufficient legal safeguards exist to protect freedom of expression;
- The regulatory system contains rules restricting free speech to such an extent that media pluralism is threatened;
- Insufficient legal safeguards exist to protect freedom of information;
- The regulatory system contains restrictions on access to official information;
- When access to the journalistic profession is not open, the regulatory system that prescribes who may practice journalism contains requirements that are not transparent, subjective, disproportionate, and discriminatory;
- The regulatory system does not contain guarantees against compulsory disclosure of journalists' sources;
- The regulatory system cannot guarantee the editorial independence of the media;
- In case of change of ownership, the regulatory system does not grant journalists social protection;
- The regulatory system cannot guarantee access to events for news reporting for journalists;
- The regulatory framework does not sufficiently guarantee the independence of the regulatory and/or competition authorities;
- The media regulator has no effective monitoring and sanctioning power;
- There is no (representative) press council or comparable body monitoring journalistic activities;
- The Member State does not take active measures to promote media literacy among different groups of population.

These threats have been translated into indicators that aim to measure whether regulatory safeguards in these areas exist and are effective; exist but are not effective; or do not exist. In the case of the assessment of policies or support measures (subsidies, for instance), the question that needs to be answered is whether such policies and/or support measures are well-developed, under-developed, or non-existent. Depending on the results of the measurement, the score for the indicator will show a low, medium, or high risk for this particular aspect.

It should be noted that, in order to assess these indicators, one should not only take into account constitutional and statutory measures, but also case law, and co- and/or self-regulatory measures (like ethical codes, editorial statutes, internal charters, etc.).

Pluralism of Media Ownership and Control

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

The aim of the legal indicators is to assess whether there are regulatory safeguards in place which can prevent the undue concentration of ownership of, or control over, the media, which is the primary risk in the area of pluralism of ownership and control. Such safeguards may be found both in media legislation and in competition law, and may rely on various criteria (such as number of licenses, capital share, audience share, and revenues). They relate either to mono-media concentration in a single media market or to cross-media concentration in various media markets. Safeguards in relation to bottlenecks arising from vertical integration are also looked at, as well as transparency measures concerning the public and the relevant authorities. What is measured is whether such safeguards exist and whether they are effectively implemented. The indicators, however, do not prescribe the use of a certain system, nor do they reflect a preference for certain criteria over others. They start from the observation that it is the Member States' prerogative to decide on the appropriate system in the light of the size and specific characteristics of national, regional or local media markets. Hence, the various regulatory systems in place are considered to be "functional equivalents" in terms of interpreting the indicators.

The economic indicators with regard to pluralism of media ownership and control rely on classic economic measures involving competition and market power wielded by individual firms. Market power measures like Top4/Top8 analyses and the Herfindahl-Hirschman Index (HHI) are traditionally used to indicate the degree to which a firm or leading firms will be able to control

³³ For an overview, see Peggy Valcke, "From Ownership Regulation to Legal Indicators of Media Pluralism: Background, Typologies, and Methods," *Journal of Media Business Studies* 6, no. 3 (2009): 19-42; Susanne Nikoltchev, ed., *IRIS Special: Television and Media Concentration – Regulatory Models on the National and the European Level* (Strasbourg: European Audiovisual Observatory, 2001).

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

quantity or price in a market,³⁵ but efforts have been made to use these as evidence of media concentration and thus diminished pluralism.

Top4/Top8 analyses are often used to provide quick measures of market control based on the market activity of the top four and top eight firms in comparison to all firms in the market. When the top four firms control more than 50% of a market, or the top-eight enterprises account for more than 70% of a market, undesirable concentration or control is said to be evident. Because this method typically relies on national or state market data, it subsumes all national conditions and will usually understate concentration in local or regional markets where fewer competitors typically operate.

The HHI is a more robust indicator of market power developed for competition law analysis and is used by some to measure concentration in media markets. Unfortunately it is not a very effective measure of issues of pluralism in national media markets because it is a measure of economic concentration whose statistical construction assumes a number of competitors serving a specific geographic market – conditions that are more likely in other industries than in media.³⁶ The indicator is sometimes applied at the national level by those who want to measure concentration of media ownership, but this use ignores the central geographic market issue of HHI analysis and the fact that many media serve regional or local markets and do not compete on the national level.³⁷ HHI works best in analysis of media when it is applied to proposed mergers, but it rarely elucidates general discussion of media plurality because television, radio, and newspaper markets tend toward monopolistic or oligopolistic competition and the index provides limited insight under those conditions.

The limitations of HHI have been recognized by some media policy makers. The Federal Communications Commission in the United States created an alternative measure, the Diversity Index (DI), as an indicator of risks to pluralism in local markets when cross-media ownership was involved.³⁸ The diversity index, however, was rejected by the courts and highly criticized in Congressional hearings in relation to its assumptions, weighting method, and application. Several alternative means of assessing pluralism using HHI-based measures have since been suggested, including the Noam Index, but these too have been disputed and none have been widely accepted.³⁹

³⁵ Robert G. Picard, *Media Economics: Concepts and Issues* (London: Sage, 1989).

³⁶ Eli Noam, "How to Measure Media Concentration," *Financial Times*, Aug. 30, 2004, accessed Feb. 25, 2008, <http://www.ft.com/cms/s/da30bf5e-fa9d-11d8-9a71-00000e2511c8.html>; Eli Noam, *Media Ownership and Concentration in America* (New York: Oxford University Press USA, 2009).

³⁷ Robert G. Picard, "Measures of Concentration in the Daily Newspaper Industry," *Journal of Media Economics* 1, no. 1 (1998): 61-74.

³⁸ The diversity index, its calculation, and application were outlined by Jonathan Levy, FCC Deputy Chief Economist, in a 2003 internal report "The Diversity Index," accessed Feb. 28, 2008, <http://www.fcc.gov/ownership/materials/newly-released/diversityindex030703.pdf>.

³⁹ These include a suggestion by Eli Noam in the commentary cited above and a suggestion by Brian Hill, "Measuring Media Market Diversity: Concentration, Importance, and Pluralism," *Federal Communications Law Journal* 58, no. 1 (2006): 169-194.

The MPM therefore incorporates the use of Top4/Top8 analysis and HHI analysis, because they are still useful to this risk-based application (although they must be interpreted with care), among nearly sixty different economic indicators related to pluralism.

Pluralism of Media Types and Genres

The third risk domain assesses risks to pluralism of media types and pluralism of media genres. The former refers to the co-existence of media with different mandates and sources of financing, notably commercial, community and public service media, within and across media sectors such as print, television, radio, and Internet. The latter refers to diversity within media with regard to media functions, including the provision of information, education, and entertainment.⁴⁰ The absence of or insufficient protection of certain media types and genres; the lack of sufficient market resources to support a wide range of media types; insufficient funding, but also over-funding, of public service media (PSM); as well as the under- or over-representation of PSM in new media have been identified as threats to pluralism of media types and genres. Such threats have been translated into a number of legal, economic and socio-demographic indicators.

The legal indicators again aim to assess the existence and the effectiveness of legal and policy measures that have been adopted to foster, in this case, diversity of media types and genres. Examples of such measures include must-carry rules, which exist in most, if not all, EU Member States, in order to preserve the presence on distribution platforms of certain channels considered to offer content of general interest.⁴¹ Other examples are the events-lists mechanism and rules on short news reporting, which can be seen as safeguards against the disappearance of some media genres (sports in particular) from free-to-air television.⁴² Further, rules on the allocation of adequate, consistent, and sufficient resources to public service media, which according to various policy documents of the Council of Europe⁴³ serve as a cornerstone of democracy, are taken into account.

Economic indicators in this domain assess the lack of sufficient market resources to support the range of media, which in turn causes a lack of or underrepresentation of certain media types. Consumer and advertising spending on, as well as public financing of, different media determine the sustainability of the medium and therefore the range of media present in the market.⁴⁴ Key indicators used to detect risks of under- or over-representation of certain media types include

⁴⁰ ICRI et al. "Indicators for Media Pluralism in the Member States, User Guide" 26.

⁴¹ About must-carry rules in Europe, see: Susanne Nikoltchev, ed., *IRIS Special: To Have or Not to Have – Must-Carry Rules* (Strasbourg: European Audiovisual Observatory, 2005).

⁴² For more information, see Oliver Castendyk, Egbert Dommering, and Alexander Scheuer, eds., *European Media Law* (New York: Kluwer Law International, 2008); and the references cited under "Article 3a TWFD" and "Article 3k AVMSD" in Katrien Lefever, Hannes Cannie, and Peggy Valcke, "Watching Live Sport on Television: A Human Right? The Right to Information and the List of Major Events Regime," *European Human Rights Law Review* 4 (2010): 396-407; Katrien Lefever and Ben Van Rompuy, "Ensuring Access to Sports Content: 10 Years of EU Intervention. Time to Celebrate?" *Journal of Media Law* 1, no. 2 (2009): 243-268.

⁴³ For instance: Council of Europe, Recommendation No R (96) 10 on the Guarantee of the Independence of Public Service Broadcasting, 11 September 1996; Recommendation CM/Rec (2007) 3 on the Remit of Public Service Media in the Information Society, 31 January 2007. See also UNESCO, *Media Development Indicators: A Framework for Assessing Media Development* (UNESCO International Programme for the Development of Communication, 2008).

⁴⁴ ICRI et al. "Indicators for Media Pluralism in the Member States, Final Report" 76.

audience parity and financial parity between commercial and public service media; the percentage of GDP per capita required by an individual to obtain TV or radio reception, to subscribe to a newspaper or magazine, or to obtain Internet service; and the ratio of consumers' and advertisers' spending on different media per capita compared to GDP per capita.

For instance: If within one country the audience share or the financing of commercial broadcasters is below 20% of the total audience share or total financing, then the risk of having a lack of or underrepresentation of media types is considered as very high. If the audience share or financing is between the range of 20 and 35%, then the risk is considered medium, while if it is above 35% the risk is considered as low or non-existent. Further, if within one country the percentage of GDP per capita required in order to have access to media is above 10%, then the risk of a lack of or underrepresentation of media types is considered as very high. If this percentage lies between the range of 5 and 10%, the risk is considered medium, while if it is below 5% the risk is non-existent. A more appropriate variable to be assessed here could be the total consumer spending per capita, however data on this variable are less available compared to the GDP per capita. With regard to the ratio of consumers' and advertisers' spending, if within one country the percentage of GDP per capita spent for one medium is below 1%, then the risk of insufficient market resources to support the range of media is very high. If the percentage of GDP lies between 1 and 2.99%, the risk is considered as medium, while if it is above 3% the risk is considered as non-existent.⁴⁵

The main indicators for pluralism of media genres are the ratio of news/public affairs, educational, and entertainment programming in the different media. "If within one country the proportion of entertainment broadcasting programs or magazines is above 90% of the total programs or magazines, then the risk of having a lack of or underrepresentation of media genres is considered to be very high. If this proportion lies between 75 and 90%, the risk is considered medium, and if the proportion is below 75% the risk is considered low or non-existent."⁴⁶

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

The indicators are measured as follows. When full time and part time employees within the new media division of public service broadcasters represent less than 3% of the total number of employees, the risk of absence of underrepresentation of PSM in new media is considered high. If the ratio lies between 3 and 5%, the risk is

⁴⁵ ICRI et al. "Indicators for Media Pluralism in the Member States, User Guide" 118-119, 126, 142.

⁴⁶ Ibid., 130.

considered as medium, while if it is above 5% the risk is considered low. With regard to the proportion of online offering media space for publicly available comments and complaints, if it is below 50%, the risk of insufficient attention to public participation, and therefore the threat to pluralism of media genres, is considered high. If the proportion is between 50 and 75%, then the risk is medium, while if it is above 75% the risk is very low or non-existent.⁴⁷

Political Pluralism in the Media

The way in which political representation and the political process are developed in democratic societies, and the role that the media and journalism play in shaping political communication, depend on various circumstances, including political traditions. Still, the role of the media in making politics (and society) visible, and in providing information, analysis, and fora for debate and shared democratic culture is beyond dispute.⁴⁸ Taking that into account, the domain of political pluralism in the media examines a complex set of structural circumstances regarding access and control, but also underlines dynamic components embedded in media discourses, journalism practices, and struggles for independence.

According to the working definition in the study, “political pluralism in the media is described as referring to fair and diverse representation of and expression by various political and ideological groups, including minority viewpoints and interests, in the media.”⁴⁹ This definition is thus twofold and includes both active and passive access by political groups to the media. First, it encompasses the capacity and potential of all social segments, with their likely diverse political/ideological views and interests, to address and reach the public by means of media, whether owned by them, affiliated with them, or owned by third parties. Second, it designates the spectrum of political and ideological viewpoints, opinions, and interests covered by and represented in the media.

The indicators developed in this domain view and assess political pluralism from various perspectives – both internally (content) and externally (ownership), from both the supply side and the users’ side:⁵⁰

- Internal political pluralism (at the level of media supply/content) can be understood as referring to the diversity of political/ideological viewpoints covered by and expressed through various media programs, as well as the extent to which media reflect views of the entire political spectrum of a society.
- External political pluralism refers to political affiliation of media owners and encompasses the degree of (in)dependence of owners from political affiliation, political action/inaction, governmental financial support, and managerial control; as well as the (pre)dominance of

⁴⁷ Ibid., 149, 151.

⁴⁸ Peter Dahlgren, *Media and Political Engagement: Citizens, Communication, and Democracy* (Cambridge: Cambridge University Press, 2008).

⁴⁹ ICRI et al. “Indicators for Media Pluralism in the Member States, User Guide” 26.

⁵⁰ ICRI et al. “Indicators for Media Pluralism in the Member States, Final Report” 44-45.

certain types of political ownership and/or pressure on specific media outlets, for example TV and newspapers rather than radio or Internet.

- Audience or user political pluralism refers to citizens' availability (in the sense of willingness or initiative) and ability to access, critically assess, consume, or actively make use of media by extracting, analyzing and/or adhering to particular political beliefs and opinions being propagated through the media.

The MPM measures the following risks in the political domain of media pluralism:

- Political bias in the media: This risk is indicated by excessive or exclusive representation or promotion of the political ideas and interests of the governing party (or parties) in the media, by positive/negative propagandistic coverage of selected political actors, or by a lack of investigative reporting disclosing the hidden actions of various political actors or groups. Insufficient regulatory safeguards for fair and accurate political reporting in the media, for reacting to misrepresentation (through right-of-reply or complaint mechanisms) and for the fair representation of the various political groups in board or advisory functions are also considered relevant legal indicators for this risk.⁵¹
- Political bias in the media during election campaigns: Concerns about political pluralism increase during periods of electoral campaigning.⁵² Misrepresentation in, or lack of access to, the media preceding the moment at which political power is redistributed is likely to have a very important impact. This explains the identification of a separate risk of "political bias in the media during election periods," measured through socio-demographic and legal indicators looking at the level of successful complaints by citizens or political actors, impartiality obligations for public broadcasters, rules on political advertising, and fair access to airtime on PSM.⁵³
- Excessive politicization of media ownership/control: Political affiliation of media owners is considered a relevant factor in the assessment of media pluralism. This risk is measured by looking not only at the domination of one or more media owners affiliated with one political group, but also excessive state ownership in the media and lack of transparency of data on the political affiliations of media owners. Discrimination in the distribution of state advertisements is also included as a socio-demographic indicator for this risk, besides a

⁵¹ It has been recognized that the risk of political bias can be mitigated through both behavioral remedies (prescribing, for instance, fair, balanced, and impartial political reporting) and structural safeguards (such as the fair representation of the various political groups in management or board functions of media companies or media councils). In its Recommendation (2007) 2 on Media Pluralism and Diversity of Media Content of 31 January 2007, the Council of Europe recommended that Member States encourage the media to supply the public with a diversity of media content capable of promoting critical debate and an increasingly broad democratic participation of persons belonging to all communities and generations. However, the Recommendation, by way of disclaimer, stated that they should do so while respecting the principle of editorial independence. Hence, in adopting statutory measures, a careful balance has to be struck between stimulating political pluralism and respecting the editorial independence of media outlets. ICRI et al. "Indicators for Media Pluralism in the Member States Final Report," 34.

⁵² Council of Europe, Recommendation CM/Rec (2007) 15 on Measures Concerning Media Coverage of Election Campaigns (and Explanatory Memorandum CM (2007) 155 add), 7 November 2007.

⁵³ ICRI et al. "Indicators for Media Pluralism in the Member States, Final Report" 35.

number of legal indicators looking at regulatory safeguards for the separation of political and media power (for instance, rules obliging broadcasters to be structurally and/or financially independent of political parties).

- Insufficient editorial independence:⁵⁴ This risk is measured through a number of legal indicators, looking at relevant regulatory safeguards in print media, linear radio and television broadcasting and on-demand audiovisual media services, as well as a number of socio-demographic indicators. The latter relate to the ability of media professionals to practice professional standards and values with regard to political reporting in the media, and touch upon questions such as: Do representative professional associations exist to negotiate labor relations and mechanisms for the exercise of editorial independence between media employers and media professionals? Are there excessive conflicts between editorial staff and media owners due to attempts at political instrumentalization of the media?
- Insufficient independence of Public Service Media (PSM): This risk is assessed considering appointment procedures and composition of their governing bodies, financing mechanisms, and procedures for dismissal of key editorial and management personnel (from both a socio-demographic and a legal perspective).
- Insufficient pluralism of news agencies: This refers to the risk of lack of independence of news agencies from the state or from political groups.
- Insufficient pluralism of distribution systems: Political affiliation of distribution networks for print, radio, and television entail a risk of discrimination in granting access to the distribution system.
- Insufficient citizen activity and political impact in online media: The level of citizen activity in online media and their impact on the political debate is also looked at, since citizens and citizens' groups, plus their opportunities and competences for informed political engagement and participation, have received growing attention in recent debates about media pluralism, especially those exploring the importance of media literacy and the role of the Internet in politics and democracy.

The 37 indicators for the risk domain “political pluralism” assess the existence and effectiveness of regulatory safeguards on the one hand, and structures and practices on the other hand, which ensure access to the media by the various political actors and groups, and enable the public to become informed in a correct and complete way on the wide variety of political viewpoints within society.

Cultural Pluralism in the Media

The MPM defines cultural media pluralism as referring to fair and diverse representation of and expression by various cultural, linguistic, religious, and ethnic groups; disabled people; and women in the media (i.e. passive and active access by these various groups to the media).⁵⁵ It comprises plurality and a variety of themes and voices brought to the media, socialization through multiple

⁵⁴ Although the previous risks are strongly intertwined with insufficient editorial independence, the latter has also been identified as a separate risk.

⁵⁵ ICRI et al. “Indicators for Media Pluralism in the Member States, User Guide” 26.

forms of media access, and participation and representation of diverse values, viewpoints and roles, in which media users belonging to various communities can recognize themselves.

Cultural pluralism in the media is a highly complex concept with many dimensions; consequently, various risks have been identified within this domain, all measured using a number of indicators. Cultural pluralism can be conceived and interpreted in a socio-demographic sense to refer to proportional representation of different communities in the media (reflective dimension). A policy or normative dimension would indicate the level of public recognition and support for different cultural communities to maintain and express their identities through the media and communication services, with an emphasis on diversity as integration (whereby mutual interaction between the diverse cultures in media is promoted) or diversity as distinctiveness (whereby preservation of the distinctive character of particular cultures in the media is the main goal).⁵⁶

When applying the concept of cultural pluralism to the media, different levels of the media environment bear significance. These levels encompass the system as a whole, individual media organizations, content and services, human resources and professional practices, and patterns of use. The MPM identifies ten potential threats to cultural pluralism in the media, which are assessed through a number of legal, economic and socio-demographic indicators, at the following levels:

- *Content level:* Threats at this level include absence of, or insufficient or stereotypical media representation of, particular cultural, religious, linguistic, and ethnic groupings in society, including communities based on gender, age, or disabilities; insufficient media representation of European, national, or world cultures (or vice versa, highly disproportionate representation of national and European media production resulting in insufficient coverage of non-European and non-US cultures, regions, and issues); insufficient proportion of independent and in-house production.
- *System level:* Risks at the system level include the absence, or an insufficient system, of minority and community media, including in particular: the lack of media outlets serving different cultural communities; the lack of investment in minority and community media; entry barriers for minority and community media by cable operators and other platform providers; marginal reach; lack of public support measures aiming at compensation of disadvantaged position of minorities as media users.
- *PSM provision level:* The absence or insufficient representation of communities defined by language, ethnicity, religion, gender, age, and disabilities in the public service media has been identified as a separate risk, given the specific duties that are usually imposed on PSM in relation to cultural diversity.⁵⁷

⁵⁶ ICRI et al. "Indicators for Media Pluralism in the Member States, Final Report" 51-52.

⁵⁷ Public Service Media are often singled out from other media outlets in their normative task to ensure the promulgation of impartial, comprehensive, and quality information contributing to the formation of well-informed citizens, embracing diverse cultural communities and ways of identification. This is translated into programming obligations for PSM in most European countries that frequently require the transmission of a specific proportion of culture-related programs, promotion of local culture and works, and often broadcasting programs representing all the regions and minority cultures in a given country. Ibid., 57.

- *Human resources level:* There is a general agreement that a workforce that more accurately reflects the makeup of a society inevitably produces richer and more relevant output, which, in turn, makes media services more compelling and attracts a wider audience.⁵⁸ The MPM consequently includes the risk of absent or insufficient representation of journalists and media executives from minority, ethnic, religious, and linguistic groups in a society.
- *Accessibility and use level:* Low accessibility of content and services by minority or underprivileged communities (e.g. disabled people) has been identified as a tenth risk in the domain of cultural pluralism.

Geographical Pluralism in the Media

The last domain covers geographical media pluralism, which refers to fair and proportional representation of and expression by local and regional communities in the media (i.e. passive and active access by these communities to the media).⁵⁹ It comprises geographical (local, regional) plurality and a variety of themes and voices brought to the media, socialization through multiple forms of interactions, and representation of local and regional values and viewpoints. Geographical pluralism may be interpreted through the spatial dimension (media content is produced and distributed within a local and regional community) or the social dimension (media content and services address the unique needs and interests of local and regional communities).⁶⁰ A prominent role of regional media, and the regional press in particular, in preserving and fostering media pluralism has been recognized in numerous scholarly works.⁶¹

Just like cultural pluralism, geographical pluralism can be assessed at different levels:⁶²

- *System level:* At the system level, the main threat is the absence, or insufficient system, of local and regional media, which materializes through the lack of independent media outlets serving local and regional communities; the lack of investment in local and regional media; entry barriers for local and regional media by cable operators and other platform providers; marginal reach; lack of public support measures; high and growing centralization of a media system on a national scale; high and growing concentration of local and regional media ownership. This is assessed through the degree of centralization of the national media system, looking at, for instance, combined ownership of regional/local media and national

⁵⁸ For instance: Andrea Millwood Hargrave, ed., *Multicultural Broadcasting: Concept and Reality*, Report by Broadcasting Standards Commission, Independent Television Commission & British Broadcasting Corporation, 2002. A great variety of measures have been taken in numerous EU countries to promote cultural diversity in the workplace (including media organizations). Unfortunately, the implementation of such projects is still limited and their success is ambivalent or not easily accountable due to a lack of systematic evaluation schemes. ICRI et al. "Indicators for Media Pluralism in the Member States, Final Report" 56.

⁵⁹ ICRI et al. "Indicators for Media Pluralism in the Member States, User Guide," 27.

⁶⁰ Philip M. Napoli, ed., *Media Diversity and Localism: Meaning and Metrics* (Mahwah, New Jersey: LEA Publishers, 2007).

⁶¹ For instance: Nico Drok, *Local and Regional Journalism in Europe* (Maastricht: European Journalism Training Association, 1998); Dean Alger, *Megamedia: How Giant Corporations Dominate Mass Media, Distort Competition, and Endanger Democracy* (Ranham: Rowman and Littlefield, 1998); Daniel C. Hallin and Paolo Mancini, *Comparing Media Systems: Three Models of Media and Politics* (Cambridge: Cambridge University Press, 2004).

⁶² ICRI et al. "Indicators for Media Pluralism in the Member States, User Guide," 65.

media outlets; the presence of competing media in local and regional markets (e.g. ratio of number of cities with their own newspapers or with their own radio and television stations to the total number of cities); or the proportion of regional and local newspapers to national newspapers. The indicators look at financial resources, investment levels, estimated reach and audience share, access to frequencies and distribution systems, and ownership patterns (private, state, local administration, media staff, NGO, church, etc.).

- *Content level:* Geographical pluralism at the content level refers to proportional and fair media representation of local and regional communities, thereby bringing different perspectives and backgrounds into the public debate at the local and regional level. Risks include absent or insufficient media representation of local and regional communities, which might result from the absence of either locally-oriented or locally-produced content.
- *Human resources level:* The reason why a separate risk has been identified at this level, namely absent or insufficient representation of journalists and media executives from local and regional communities, is the same as for the cultural pluralism domain (see above).
- *PSM provision level:* Many EU Member States place heavier obligations on PSM than they do on commercial stations with regard to the promotion of localism and regionalism.⁶³ This motivates the identification of a separate risk at the level of PSM, i.e. the absence or insufficient representation of local and regional communities in PSM. This risk is measured through a socio-demographic indicator looking at the actual proportion of transmission time of locally oriented and locally produced content on PSM channels and services and a legal indicator assessing regulatory safeguards for such content.

Two other risks identified in the domain of geographical pluralism are the dominance of a limited number of information sources for local issues (measured through news source preferences of audiences regarding local issues) and insufficient access to media and distribution systems due to geographic factors (assessed through factors or policy and regulatory measures relating to universal coverage of PSM, availability of broadband networks in rural areas and the distribution of newspapers in remote areas).

INTERPRETATION OF RESULTS

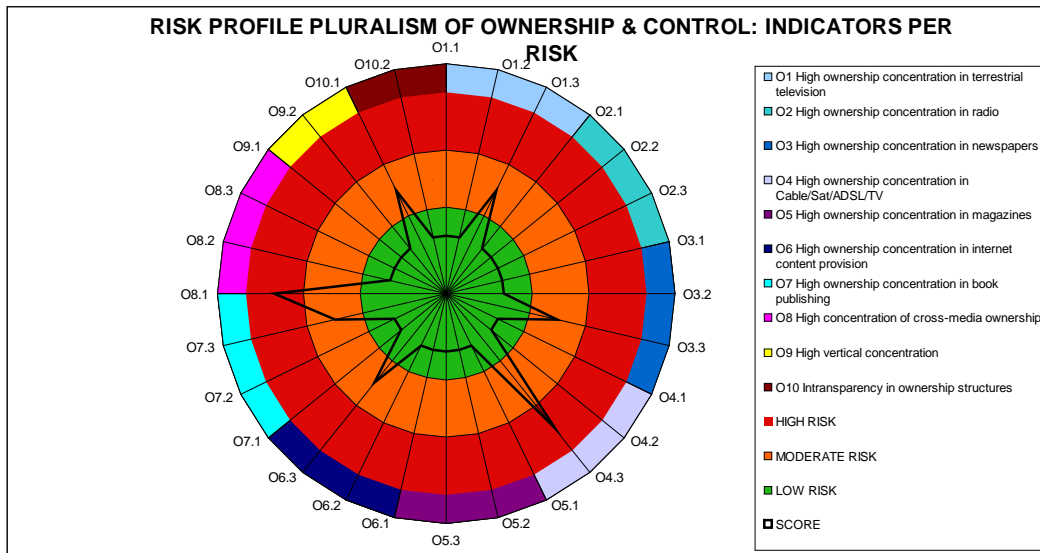
When the different indicators in the six risk domains have been scored by filling out the Microsoft Excel spreadsheet (see example of score sheet below), the results will be represented in a report that looks like a “rose” or “barometer” and which shows a country’s risk assessment profile for a particular risk domain (see example of report sheet below). These results have to be interpreted with great care. As stressed above, the MPM is a diagnostic tool and consequently any interpretation by users should consider additional societal concerns and factors. In the second section of this essay it was explained how the MPM, as a standardized monitoring tool, should in principle be applied in an

⁶³ PSM in most European countries are obliged to transmit a specific proportion of programs that relate to the promotion of local culture and works or that are relevant to all the regions in a given country.

identical manner in all EU Member States, with the same set of risks and indicators, and the same border values. Two mechanisms of “ex-ante profiling” and “ex-post interpretation of results” are offered to compensate for national specificities. The former exercise was discussed above; for the latter, the user can rely on a number of interpretation guidelines, described in the User Guide, which will be summarized in the following paragraphs.

RISK	INDICATOR	TYP	ARI	SCORE	Comment
01 High ownership concentration in terrestrial television	01.1	E	S	3%	
	01.2	E	D	5%	
	01.3	L	S	existing, non effective	
02 High ownership concentration in radio	02.1	E	S	4%	
	02.2	E	D	5%	
	02.3	L	S	existing and effective	
03 High ownership concentration in newspapers	03.1	E	S	3%	
	03.2	E	D	5%	
	03.3	L	S	existing, non effective	
04 High ownership concentration in Cable/Sat/ADSL/TV	04.1	E	S		Data not available Non-existing Existing, non effective Existing and effective

Example of a score sheet.



Example of a report sheet.

Interaction between Risks and Indicators: When interpreting the results, first the interaction between a particular indicator and the other indicators for the same risk has to be taken into account. Likewise, users of the MPM have to consider the relation between a particular risk and

other risks within the same risk domain and other risk domains.⁶⁴ For example, in the domain of cultural pluralism in the media, substitutability and complementarity of indicators must be carefully considered. Negative results for indicators looking at the level of the national media system as a whole (for instance, relating to the presence of autonomous community or minority media) may be compensated by positive results for culturally diversified media content and services offered via mainstream media or PSM, or for workforce indicators.

Interaction between Indicator Types: Second, the indicator type should be considered carefully before drawing conclusions from negative (red) scores for individual indicators. This is especially relevant for the legal indicators, which must always be considered in conjunction with the others.⁶⁵ The absence or non-effectiveness of regulatory safeguards may be more problematic because of the presence of other risks due to economic and socio-demographic factors. Similarly a positive economic and socio-demographic environment may counterbalance a red score in the legal and regulatory context. A negative legal score should therefore not automatically imply the need for new regulatory interventions. Drawing such a conclusion prematurely in a situation where the economic and/or socio-demographic context is not problematic from the perspective of media pluralism (indicated by a majority of positive or green scores for the corresponding indicators) may lead to over-regulation, and runs counter to the idea of risk-based regulation underpinning the MPM.⁶⁶

Country Profiles: Third, the User Guide lists a number of country profiles, which describe common characteristics of certain countries on the basis of specific variables, such as the size of media markets, the life cycle of media markets, the proportion of the population belonging to minorities, the separation of political and media power, the concentration of population in urban areas, the purchasing power of a country's population, and the predominant means of television reception.⁶⁷ Hence, examples of such profiles are: small versus large media markets; developing versus mature media markets and regulatory frameworks; countries with a small versus a large proportion of the population belonging to an ethnic or national minority; countries with/without the tradition of political parallelism and partisan media;⁶⁸ countries with high versus low population density in urban areas; countries with low versus high purchasing power of residents; and countries where terrestrial TV reception dominates versus cable reception or where multi-platform reception is the norm.⁶⁹

These profiles enable users to frame the results within the broader social, economic and political context of their country, and enable comparisons with countries sharing a similar profile. They call attention to important, and in some cases problematic, areas and measures that can increase or

⁶⁴ ICRI et al. "Indicators for Media Pluralism in the Member States, User Guide," 356.

⁶⁵ *Ibid.*, 357.

⁶⁶ ICRI et al. "Indicators for Media Pluralism in the Member States, Final Report," 27.

⁶⁷ This factor is important in terms of correctly interpreting the results for indicators which look at means of distribution. A negative score for an indicator focusing on one platform only (usually terrestrial reception) should be interpreted in light of the availability of alternative platforms like satellite or ADSL.

⁶⁸ Compare with the "polarized pluralist" model of democratic media systems development in Hallin and Mancini.

⁶⁹ ICRI et al. "Indicators for Media Pluralism in the Member States, Final Report," 357-360.

decrease the relevance of those areas. Profiles may also offer analytical tools to differentiate between critical and non-critical needs in order to counterbalance high risks for pluralism.

CONCLUDING REMARKS

Although the MPM is, since its publication mid-2009, a tool in the public domain and open for implementation by a wide range of users,⁷⁰ it has not to this author's knowledge yet been implemented in practice in any of the Member States. Only the Italian media regulator AGCOM voluntarily tested the MPM in the summer of 2009 and shared its experience at the 30th meeting of the European Platform of Regulatory Authorities (EPRA) in Dresden.⁷¹ While supporting the Monitor as the most comprehensive and user-friendly tool developed so far, AGCOM suggested that some improvements would be needed in order to ensure that the MPM could be tailor-made to fit the practical situation of the various Member States. Its comments were predominantly methodological without publishing any concrete results. Other media regulators refer to the lack of an explicit mandate or insufficient resources as reasons for not implementing the Monitor.

Skeptics have criticized the Commission's three-step approach for being a too soft on the issue of media pluralism and have called it a means to quiet the demands of the European Parliament and the likes of the European Federation of Journalists who continue to call on the Commission to take action on the issue of media pluralism.⁷² One cannot deny that indeed, so far, the three-step plan has not yielded any concrete results. Despite great anticipation and much hope about the third step – a Commission Communication on concrete indicators and a possible follow-up study that would systematically apply the indicators to all EU Member States – the new Commissioner for the Digital Agenda, Neelie Kroes, has not yet announced any initiative going in that direction. Without such initiative it seems unlikely that Member States will voluntarily implement the monitor.

Not surprisingly, in its recent Resolution of March 10, 2011 on the media law in Hungary, the European Parliament has once more called on the Commission to take action against worrisome developments regarding media freedom and pluralism in a number of Member States. It urged the Commission:

To act, on the basis of Article 265 TFEU, by proposing a legislative initiative pursuant to Article 225 TFEU on media freedom, pluralism and independent governance before the end of the year, thereby overcoming the inadequacies of the

⁷⁰ Implementation issues are discussed in more detail in *Ibid.*, 152-153; and Peggy Valcke, Robert G. Picard, Miklos Sükösd, Beata Klimkiewicz, Brankica Petkovic, Cinzia dal Zotto, and Robin Kerremans, "The European Media Pluralism Monitor: Bridging Law, Economics and Media Studies as a First Step towards Risk-Based Regulation in Media Markets," *Journal of Media Law* 2, no.1 (2010): 107-108.

⁷¹ Maja Cappello (AGCOM), "Testing the Media Monitor," paper presented at the 30th meeting of the European Platform of Regulatory Authorities (EPRA), Dresden, Germany, October 14–16, 2009, accessed Apr. 30, 2011, http://www.epra.org/content/english/press/papers/Dresden/Media_monitor_test_Italy.pdf.

⁷² Ewa. Komorek, "The European Commission's Three-Step Approach to Media Pluralism – A Conduit for the Protection of Expression in the European Union?" *Amsterdam Law Forum* 2, no. 1 (2009):49-54.

EU's legislative framework on the media, making use of its competences in the fields of the internal market, audiovisual policy, competition, telecommunications, State subsidies, the public-service obligation and the fundamental rights of every person resident on EU territory, with a view to defining at least the minimum essential standards that all Member States must meet and respect in national legislation in order to ensure, guarantee and promote freedom of information and an adequate level of media pluralism and independent media governance.⁷³

Chances are very low – in light of the challenges outlined in the beginning of this essay – that the Commission will respond to this call with a legislative initiative for a directive on media freedom and pluralism. But we hope that it might urge the Commission to finally take the initially envisaged third step and launch the implementation of the MPM in the different EU Member States. Only such implementation and the concrete experiences resulting from it will enable the further fine-tuning of the measurement tool.

However, already in its current “prototype” version, the monitor provides a powerful tool to improve the auditability of media pluralism – to *map the risks* – across the Member States, and to provide decision-makers both in policy and in industry with the means to develop a wider and stronger evidentiary basis for proactively defining priorities and actions in this important area – rather than having to *assess the damage* afterwards. This essay has argued that the tool is suited to accommodate the diverging profiles of media landscapes throughout the EU by considering differences in market size, media development, culture, and regulatory traditions. It takes into account the impact that underlying realities such as population size and average income levels have on the level of media pluralism sustainable by commercial means. It adopts a novel, multi-disciplinary approach combining indicators drawn from law, economics and social science and matching those indicators to different risks for media pluralism identified during the course of the study. This approach – much wider than merely examining the ownership of the media – is especially adapted to the structural transformations that the media are currently undergoing as a result of new technologies and convergence.

⁷³ European Parliament, Resolution on Media Law in Hungary, Mar. 4, 2011, accessed Aug. 22, 2011, <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B7-2011-0191&language=EN>.

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