

EMMA ENPA Feedback Art. 18(1) EMFA Guidelines Consultation

23 July 2025

EMMA and ENPA welcome the opportunity to contribute to the guidelines on Art. 18(1) per Art. 18(9) of the European Media Freedom Act (EMFA), which focuses on the functionality set out in paragraph 1.

Firstly, we would like to highlight that introducing the criteria catalogue in paragraph 1 already limits the scope of European media services that would be granted protection under Article 18 of the EMFA. Given that the regulation aims to protect European media services, we view this limitation critically, as it does not offer sufficient protection against the arbitrary removal of lawful editorial content by VLOPs to all European media services that fall under the scope of the regulation.

As such, we are concerned that re-opening the Art. 18 discussion might restrict this scope even further. The guidelines must be carefully drafted to ensure that they won't be exploited to neutralise Art. 18 by making it more exclusionary or too burdensome for the media. On the contrary, the Commission should adopt a broad approach with the aim to protect as many European media services as possible.

In addition, while Art. 18 aims to limit the possibility of Very Large Online Platforms (VLOPs) to restrict lawful professional editorial media content, the outcome is not fully satisfactory, as the final moderation decision is still with the VLOPs based on their own Terms and Conditions, per the DSA. Therefore, this article should not be weakened even further by restriction the scope.

Last, as general comment, we acknowledge the disinformation and FIMI concerns, which aim at polluting in a coordinated manner the online information space. As such, professional European editorial media as defined in the EMFA are the best instrument to counter these malicious activities and must therefore be seen as part of the solution rather than potentially be part of the problem. Equally, the article should not be abused by foreign or pure-AI media that might have a malicious intent and compete directly with professional European editorial content.

Against this backdrop, the aim of the guidelines should be for all European press publications and other media services that comply with Art. 2 EMFA to benefit from Art. 18 EMFA. We also do not see a risk in protecting all European publications and media services as defined in the EMFA, as Art. 18 does not provide a free pass, but a structured procedure. Applying a broad approach would promote professional, European editorial content and act as a defence against disinformation and FIMI on VLOPs.

Please find below some more detailed feedback from our side based on the consultation paper.

Design of the functionality

The functionality should be clear, fast and easy for media service providers to use, not to create extra burdens or problematic delays. As most criteria are yes/no questions, the format of a pre-compiled checkbox is appropriate. We have no objections to the proposal of other stakeholders to present one single declaration for all the accounts of the same media service provider, i.e. allowing a publishing house to declare all their publications' accounts at once.

Upload feature to support to the declaration

Including in the functionality a feature allowing media to upload information in support of their declaration can increase efficiency and avoid unnecessary verification by the platforms. Nonetheless, as suggested in the consultation paper, it is essential that this possibility remains fully voluntary and that the decision not to use it does not lead to excessive delays nor to the rejection of the declaration.

Further clarifications

The possibility for media service providers to refer to EU-wide or national databases must also be fully voluntary, and the decision not to use it must not lead to the rejection of the declaration. Contrary to radio and broadcasting, the press sector is not subject to technical limitations or legal requirements that justify the existence of a list / register of all press publications. Such a list would be an infringement of press freedom. In fact, the databases suggested are either for audiovisual media only, or not complete, so the inclusion in such databases must not be a precondition to benefit from Art. 18.

We fully agree with the proposal that the conditions in Art. 18(1)(d) should be alternative and not cumulative, as in most Member States press publications do not fall under the oversight of national regulatory authorities or bodies. Furthermore, it should be clear from the guidelines that self-regulatory mechanisms must remain truly self-regulatory and not turn into co-regulatory systems, and that adherence must be fully voluntary. Furthermore, it must be ensured that publications from countries where there are no press councils or that choose not to be part of the national press council are not excluded from Art. 18 nor de-facto forced to purchase any third-party certification just to enjoy their rights. The guidelines must ensure that VLOPs do not favour any standard over others by giving more prominence to media with a certain certification.

In relation to lit. e, the guidelines must take into account the difference between pure AI-media without human oversight, which should not be protected, and European media services providers, that may also use or include AI. In other words, the guidelines must be sufficiently nuanced to ensure that a publication that complies with the other criteria and publishes all content under editorial responsibility should not lose protection or that the self-declaration is rejected if it integrates content prepared with the assistance of artificial intelligence or specific AI-generated functionalities. In fact, functionalities such as weather updates or real time sports or stock market tickers may be supported or generated by AI and integrated in an online newspaper or magazine, but this should not disqualify the remaining editorial content of the publication. Nonetheless, we agree that “pure AI media” that do not have editorial responsibility and often steal content from legitimate media or impersonate them, distorting competition, should not benefit from Art. 18. Against this background, the guidelines must provide this level of nuance so as not to treat pure AI media in the same way as European press and media services that use AI-generated trackers for weather and live sports results, for example.

VLOPs’ “reasonable doubt”

As stated in the consultation paper, VLOPs would need to accept the declarations by media service providers that filled in the questionnaire. As such, the possibility to raise doubts on such self-declarations and to verify compliance with Art. 18(d) should not be abused by VLOPs. It is important that the procedure does not penalise the press sector, as it might be more difficult for platforms to verify compliance on the basis of publicly available information, since there is normally no register of press publications and the membership of press councils might not be public.

Involvement of civil society

While we are aware that the involvement of civil society is foreseen in EMFA, we recommend extreme caution with their involvement in the verification of self-declarations. Allowing third parties to decide whether a press publication can be considered as such already raises concerns in relation to press freedom. Furthermore, such organisations might have their own interests, such as promoting and advancing their own certifications, have a purely academic background without concrete experience of the media markets, or have a focus on aspects unrelated to those of Art. 18(1).

It is for those reasons that we also find the mention of “fact checkers” as well as the reference to civil society having expertise and knowledge in the field of disinformation extremely problematic, as the self-declaration and respective criteria is based on neutral administrative criteria. Assessments over the content published by a media service provider must never become a part of

the process nor affect the acceptance or rejection of that provider's declaration. Doing so would be an interference in the press and media freedom and thereby undermine the objective of the EMFA.

Professional press content already undergoes "internal fact-checking" by journalists and editorial teams and is published under editorial responsibility and liability. External fact-checking of professional European editorial content with a view to, awarding or withdrawing the status of media service for the purpose of Art. 18, would be redundant and even an interference in press and media freedom. As such, and in light of the scope of the guidelines as set out in paragraph 9, which is "to facilitate the effective implementation of the functionality", we do not believe that civil society organisation, including those focused on disinformation and fact checking should play a role in awarding or withdrawing the status under Art 18. Should a role for such organisation be nonetheless envisaged, it should be focused on foreign or pure-AI outlets and on making sure that non-professional content is not algorithmically amplified and overwhelms professional news and editorial content.

Additional Comments

The objective of the guidelines per Art. 18(9) is to "facilitate the effective implementation of the functionality". As such, the guidelines may never be used by VLOPs as a basis to condition or prevent their acceptance of the self-declaration by a media service provider that fulfils EMFA Art. 2(2).

The Guidelines may not be construed as enabling nor be conducive to VLOPs being in a position to place the onuses of guaranteeing compliance with Art. 18(1) and resulting burdens on the media. Media service providers should not have to engage in evidence gathering efforts to prove their status nor their compliance with any of the criteria. In fact, Art. 18(1) describes it as a self-declaration.

The criteria of Art 18(1) are already a restriction for certain media services, and press publications in particular, that are normally recognised as such with limited or no extra administrative steps such as registrations etc. As such, the criteria must be interpreted in an inclusive way, to ensure that all European media services, including press publications, that comply with EMFA definition in Art. 2 are covered.

Press publications may be exposed to the risk of their self-declarations being rejected, as there is no licensing system. Nonetheless, the guidelines must not encourage a shift towards the "licensing of press publications", required authorisations, (quasi) mandatory registrations to third party certificates, etc. The goal of the guidelines should not be to increase the convenience of VLOPs, but to uphold press and media freedom and the law.

Once the self-declaration of a media service provider has been approved, there should be no need to undergo the procedure again. On the other hand, if the self-declaration is rejected, an explanation should be provided, and the media service should be allowed to submit a new self-declaration once the reasons for rejection have been clarified or addressed.

It should be possible to update any information provided in the self-declaration, such as contact details per points (f) and (g). These updates should not trigger a re-evaluation of the self-declaration.

VLOPs should accept self-declarations on a rolling basis, rather than having a limited submission period. This would be in line with the fact that press publications do not need a license and can be established rather quickly..