

Safeguarding Editorial Independence in the AI Act: Concerns Regarding Measure 5.3 on Human Review and Editorial Control

In the first draft of the *Code of Practice on Transparency of AI-Generated Content under the AI Regulation (AI Act)*, a specific measure (5.3) on human review, editorial control and responsibility is proposed.

The Swedish Union of Journalists and the Norwegian Union of Journalists are concerned that the proposed requirements for procedures and documentation related to human review and editorial control will be difficult to implement in practice, and that they will create new and significant challenges—particularly in light of the constitutionally protected freedom of the press in Sweden and Norway. In our view, the proposals constitute a direct interference with the legally established editorial freedom and simultaneously undermine the existing exemptions for journalistic purposes in data protection law (GDPR).

The working group proposes that actors wishing to rely on the exemption in Article 50(4), second subparagraph, of the AI Regulation—and thereby avoid labelling AI-assisted content—must establish internal procedures with accompanying documentation demonstrating that the content has been subject to human review or editorial control, and that a natural or legal person holds editorial responsibility. The requirements are to be adapted to the size of the organisation, but must at a minimum include identification of the editor-in-chief, an overview of organisational, technical and human measures for prior review (including relevant national specificities), the date of approval, and a reference to the final version of the content.

We believe these requirements amount to an unacceptable formalisation and documentation obligation of editorial processes. Editorial control is already regulated by law and embedded in established press-ethical and legal frameworks. Making additional procedures and documentation a condition for relying on an explicit journalistic exemption opens the door to indirect governmental oversight of editorial decisions. This is difficult to reconcile with fundamental principles of press freedom and editorial independence.

Press ethics already form the foundation of all editorial activity—regardless of which technological tools are used. The framework imposes strict requirements on the use of manipulated or synthetic representations and is based on well-developed and binding principles designed to ensure truthfulness, accuracy and public trust.

Where editorial media already operate within this special framework of responsibility, including when using AI, the same regulatory need does not exist as for other actors. The risk of harm is already significantly reduced. Measures that directly interfere with editorial operations may also conflict with freedom of expression and editorial independence, thereby undermining the Regulation's objective of protecting fundamental rights, cf. Article 1.

The proposal assumes that the exception in the AI Act requires detailed regulation of editorial processes. We question that premise. On the contrary, we believe that certain media outlets which meet the requirement of legal responsibility should be presumed to meet the requirement

of editorial control. Other rules in EU law (such as EMFA Article 18) similarly identify this group of actors, which is so important for democracy in Europe.

On this basis, we consider it both necessary and appropriate to ensure genuine mechanisms that safeguard editorial freedom and independence. Any labelling requirements must therefore be supplemented by a clear and effective exemption that allows room for editorial autonomy.

Sincerely,

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