

EXPLORING

MUST-CARRY

FOR NEWS IN THE PLATFORM ECONOMY

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Note by the OSCE/RFoM

This paper is background research contributing to the OSCE Media & Big Tech initiative. The issue of visibility policies and “must-carry” are also explored in the OSCE Policy Manual on Safeguarding Media Freedom in the Age of Big Tech Platforms and AI. This research paper aims to provide a better understanding, through comparative analysis, of the “must-carry” policy approach for the broadcasting sector to draw lessons for inspiration and whether/how equivalent provisions could be operationalized in other sectors, in particular digital platform regulation. It assesses different approaches to “must-carry” but also recognizes that in the digital context, policy discussions circle around prominence and visibility. Merely replicating existing provisions would thus not necessarily achieve the pluralism aims for which traditional “must-carry” provisions have been introduced in the telecom context. However, they provide useful lessons and can inspire human rights-centric policy approaches in different contexts.

The Policy Manual on Safeguarding Media Freedom in the Age of Big Tech Platforms and AI can be accessed [here](#).

Abstract

This research paper explores how “must-carry” provisions that require communication platforms to offer specific types of content or content providers could offer a way to safeguard access to information online and help assure that audiences receive a diversity of views even as online platforms dominate news consumption in the digital age. States must help safeguard the news economy so as to ensure a well-informed citizenry and a plurality of voices, and must-carry is an underexplored regulatory framework for digital platforms despite having a long history in analog media. In light of the role that search, social media, streaming and other online platform intermediaries play in shaping information flows and the democratic public sphere, and considering the unilateral decisions by corporate tech firms to block, ban, downrank or demonetize journalism, the need to ensure distribution and access to quality information on gatekeeper platforms is clear. This paper explores the rationale for must-carry laws in the media sector and how they could be applied to tech platforms.

Introduction

Public concern about the power of social media, search and streaming platforms to shape and manipulate public discourse, along with their control over digital advertising, has recently been validated by a range of courts and competition authorities that have determined that several of these digital gatekeepers have outsized power. The dominance of online intermediaries in media markets and the broader information ecosystem underscores the need for balanced interventions that both preserve the public's right to access public interest information and culture and to ensure the viability of the sectors that produce this content.

Democratic societies have historically protected information access in the face of powerful communication intermediaries and used public policy to protect or promote certain types of content (or content producers) that is deemed to be in the public interest. More broadly, there is a long democratic tradition of balancing between private and public interests and regulating the market to ensure fair competition as well as the provision of core public goods.

Over the past century, regulators have been using so called “must-carry rules” to ensure diverse voices remained accessible on privately owned broadcasting platforms. From local broadcast requirements in the US, Japan and South Africa to linguistic content protections in Canada, Taiwan and across Europe, these provisions have a rich history of balancing private interests with public information and communication needs.

Throughout the OSCE region and in countries around the world, governments have enacted must-carry style laws that are designed to pursue a range of public policy goals and which apply to various types of information intermediaries. These laws impose on private companies an obligation to carry certain content or stations, which are outlined in greater detail below. In some cases, these laws aim to ensure the availability of certain channels or of locally produced content. In other cases, the law's rationale is to ensure plurality and a market for content that might otherwise not be commercially viable. Regulations such as must-carry or related approaches such as labeling or prominence requirements always carry a risk of political or corporate capture. However, the long history of must-carry regulations offers important lessons on how to design legal regulatory frameworks to mitigate political interference and maintain media independence. As with all laws and regulations related to media, they carry the potential for abuse and capture in countries with weak rule of law, limited independent regulatory bodies, or authoritarian governments.

What are must-carry provisions?

Must-carry laws have been around for decades. Historically, policymakers have recognized that some communications services are so fundamental to public discourse and information access that special regulatory intervention is warranted to ensure distribution and universal availability. Must-carry provisions emerged from the “essential facilities” doctrine, a concept rooted in antitrust law, which seeks to prevent dominant gatekeepers, such as telecoms or those with spectrum licenses which are limited in number, from excluding or obstructing competitors. In some cases, a private corporation may hold a “natural monopoly” or provide an essential platform for other businesses or users, like railroads or electricity, in which case lawmakers have opted to impose common carriage or must-carry provisions on those monopolies (such as US railways in the 19th century and telecoms in the 20th century).

Must-carry rules for specific content first emerged in the United States in the 1960s to protect local broadcasters from competition as a new technology platform — cable TV — grew in popularity. These rules aimed to ensure that people would continue to have access to local TV stations. Over the ensuing decades, must-carry laws have spread around the world as policymakers strove to address competition dynamics in their markets and to ensure pluralism as well as the availability and accessibility of public interest content.

In assessing the diversity of must-carry policies around the globe, it becomes clear that there is no single model for must-carry provisions, no uniform definition of what types of content they relate to, or to which platforms they apply to.

Relevance for the digital age

Early must-carry provisions were adopted when broadcast spectrum was a scarce public resource, and lawmakers sought to ensure that gatekeepers could not block audiences from accessing certain programming. The online information ecosystem, however, is a different context. Online carriage poses another challenge: bandwidth is effectively infinite, yet Big Tech platforms now oversee a different scarce resource — people’s attention. That is to say, there has been a shift from gatekeeping being access-based (is the information accessible to the user?) to be ranking-based (is the content visible to the user?). Despite this shift, the application of must-carry obligations could be a tool for allocating access to a scarce resource, attention for example. As such, it could transform the traditional understanding of must-carry into a broader visibility policy.¹

¹ The OSCE refers to the term “visibility policies” to mean policy — as well as (self-)regulation — which offers the media special treatment that is intended to improve its visibility and accessibility for users on online platforms.

Given the importance that online platforms such as search, social media, and streaming have in the information ecosystem and the market dynamics that shape the visibility and viability of content industries such as journalism, it is clear that the current situation of letting dominant gatekeepers unilaterally decide what to carry and how to display (what prominence to give to) anything carried is not in the public interest. While not providing a one-size-fits-all solution and carrying certain risks, updating must-carry provisions for the digital age could be a feasible way forward, at least as one policy option and in certain contexts and jurisdictions. Some jurisdictions such as Canada and the European Union have already introduced policies in this regard.

Countries around the world have implemented must-carry provisions in order to ensure access to and availability of specific types of content, such as locally produced content or content in certain languages. In many cases, they are specifically enacted because market conditions might otherwise not ensure the availability or access to specific content or channels. In other cases, the dominance of foreign content on TV, for example, gave rise to must-carry provisions for national content, as in the case of Taiwan and Canada.

There is a long history of must-carry laws in many OSCE participating States that have been implemented to protect a pluralistic and accessible media ecosystem and the viability of local journalism. Given the infrastructural dominance of a few digital information and communications platforms and the challenges of cultivating healthy information ecosystems, this research brief argues that policymakers and regulators should examine how must-carry provisions could be applied to online platforms, and how traditional must-carry provisions can be adapted to the digital age and algorithmic platforms with respect to findability, discoverability, or prominence — which would transform them into broader visibility policies beyond mere obligations to carry certain content.

Such provisions could provide a partial response to antidemocratic dominance of Big Tech platforms. They cannot, however, solve the more fundamental challenge of content moderation or Big Tech's extractive and surveillance-based business models, and would not question the distribution of these Big Tech platforms of news in the first place. But they could help prevent gatekeeper platforms from "exiting" or banning news media in conjunction with other policies, such as news media bargaining codes or platform-publisher remuneration requirements. Previous laws mandating fair compensation for news content carried by dominant digital platforms in view of addressing their market power backfired as some platforms consequently blocked access to news content altogether, for example in Canada and Australia. This illustration of Big Tech's immense power over news distribution and prioritization of profit over public interest also highlight the potential of must-carry provisions which could have prevented platforms' option to block access to news content. It must be recognized, however, that must-carry provisions would also not challenge the underlying power dynamics and media dependencies on platform distribution.

This research brief argues that policymakers should consider a wider array of tools and think creatively about how to apply traditional public interest regulatory approaches to newer platforms. In the following section, this paper surveys how a range of democracies within and outside of the OSCE region have applied must-carry regulations in different contexts. It provides an overview of the platforms, types of content and media organizations that are typically subject to these obligations, and whether these laws apply to online and to streaming platforms.

Overview of existing must-carry provisions

Australia: TV broadcast + devices; content; no online or streaming

Must-carry rules in Australia apply to TV broadcasters and manufacturers of connected TV devices, including smart televisions, set-top-boxes and plug-in devices with respect to both producers and content. They are designed to promote Australian media content under a quota system and require all commercial TV licensees to broadcast at least 55% of Australian content daily. TV device manufacturers — not the streaming services — must carry programming by linear broadcasters and Australian free-to-air TV broadcasters and are prohibited from charging them fees to or interfering with their content or advertisers.

These rules don't currently extend to online platforms. However, in the wake of Australia's News Bargaining Code and Big Tech's reactions, including that they would stop journalism funding deals or ban access to news altogether, a 2024 parliamentary committee investigation into its impact resulted in some advocating for the addition of must-carry provisions or for Meta to be designated under the Australian law to compel compliance with the law, in order to prevent the corporation from banning news or circumventing the law's intent.

Brazil: TV broadcast; channels + content (Brazilian, educational); no online or streaming

Brazil has a well-established must-carry regime focused on both pay-TV and free-to-air broadcasting. It requires paid TV providers to distribute 16 free-to-air channels including major broadcasters, while also enforcing quotas for Brazilian programming and ensuring access to educational content. It is overseen by regulatory bodies, though enforcement faces challenges due to self-reporting mechanisms and minimal penalties.

Brazil has not yet extended must-carry obligations to online platforms, though proposed legislation has sought to introduce such requirements for journalistic content on social media platforms, creating concerns about potential government overreach in determining content validity without adequate safeguards.

Canada: Radio + TV broadcast; online streaming; channels + content (Canadian, linguistic, regional) + expenditures

Canada's must-carry framework is among the most comprehensive globally. Its broadcasting regulatory framework, administered by the Canadian Radio-television and Telecommunications Commission, was modernized to include online streaming. Traditional broadcasters must carry certain channels as part of a basic services package including public broadcasters. Strong content quotas require private broadcasters to allocate at least 50% of their programming to Canadian content and spend 30% of their revenue on Canadian Programming Expenditures. Linguistic and regional requirements protect French-language content and support local journalism through funding obligations. The system is reinforced by public funding initiatives such as the Canadian Media Fund, and even digital broadcasters like Netflix are now subject to a 5% revenue contribution mandate under recent policy changes.

However, Canada's regulatory framework faces limitations in enforcement, reliance on informal mechanisms, and inconsistent penalty application. Its Online Streaming Act considered requirements for algorithmic promotion of Canadian content, but these rules are still in development. Critics argue that current frameworks may entrench legacy broadcasters, marginalize new media players, and risk politicization, particularly if future governments reverse these laws. The Online News Act compels platforms to pay news publishers but does not establish must-carry obligations, which allowed Facebook and Instagram to ban news publishers from distribution to avoid paying usage fees.

European Union: radio + TV broadcast must-carry implemented at national level (cultural, linguistic, accessibility); can include satellite/wireless; online and streaming (Very Large Online Platforms)

The must-carry provisions in the European Union have evolved from covering traditional broadcasting to include digital platforms. The EU's initial must-carry provisions, established in 2002, are implemented at the national level and adjudicated by the European Court of Justice. The provisions require Member States to determine appropriate "general interest objectives" related to linguistic and cultural needs and to ensure accessibility for "end-users with disabilities." Must-carry provisions apply to radio, television broadcasts, and related services with the definition left open to accommodate wired/satellite broadcasters.

The 2024 European Media Freedom Act (EMFA), which entered into force in stages as of August 2025, extends certain privileges for selected media with regard to their presence on digital platforms, specifically "very large online platforms" (VLOPs) as defined by the Digital Services Act (DSA). Media that meet editorial and independence standards can

self-declare their status. The act mandates prior notification before content removal (based on the VLOPs' terms of services) for these declared media and that the content in question remains accessible until the media has responded to the notification, but at least 24 hours (referred to as "media privilege"). The EMFA also establishes yearly structured dialogues between platforms and media stakeholders, and requires platforms to allow users greater control over media settings. The newly created European Board for Media Services (EBMS) is responsible for enforcement mechanisms, although a lack of clarity remains regarding the declaration, notification process, and how penalties would be imposed.

Japan: Local broadcasters must-carry national channels; no online/streaming

Japan's broadcasting regulation includes must-carry provisions requiring local broadcasters to provide national channels in rural areas for public safety purposes. While the Broadcasting Act of 1950 establishes comprehensive content standards and licensing requirements, enforcement has been inconsistent with political influence affecting regulatory oversight. The independent Broadcasting Ethics and Program Improvement Organization (BPO) provides oversight but lacks legal authority, though it has successfully ruled on ethical violations such as unfair political coverage. Current regulations don't explicitly address online platforms.

South Africa: subscription broadcasters must-carry Public Service Media (PSM) + local content; no online/streaming

In South Africa, subscription broadcasters are required to carry the South African Broadcasting Corporation channels, though exemptions exist for smaller providers. Local content quotas require broadcasters to include programming produced by South African citizens, residents, or majority South African-owned companies, with emphasis on content addressing social, political, and economic issues of significance. Currently, other digital platforms are not subject to must-carry obligations, with regulatory focus instead on data protection and competition issues.

However, the regulatory landscape is evolving away from strict must-carry rules toward a "findability" approach. South Africa's competition authority is now proposing that the government conduct public inquiry processes to determine appropriate regulatory mechanisms for ensuring access to public interest content across modern platforms. This shift acknowledges that simply mandating carriage may be insufficient if content remains difficult for users to discover.

Taiwan: cable (PSM); expenditures

Taiwan has limited must-carry provisions that require cable providers to include public broadcaster channels in basic service packages, particularly those offering indigenous

language programming. The regulations only apply to cable TV, not to online or digital platforms. Cable broadcasters generally comply with these obligations, contributing 1% of annual revenues to support public programming. In 2022, the National Communications Commission attempted to introduce digital media regulations through legislation modeled after the EU regulations, but withdrew the draft legislation following public opposition over free speech concerns. Due to concerns about Chinese interference, Taiwan also has restrictions on foreign investment and market control in media.

United Kingdom: broadcasters (PSM)

The UK currently uses a prominence framework for increasing the accessibility of public service media and imposes must-carry obligations that require broadcasters to enter agreements with PSM channels for distribution. The Office of Communications (Ofcom) has the responsibility of enforcing these measures through statutory obligations or negotiation assistance; however, the organization has never directly intervened as broadcasters and PSM channels generally are easily able to resolve disputes.

Ofcom's ongoing Public Service Media review is considering extending these frameworks to digital environments, with a focus on ensuring public service content remains easily discoverable. While previous regulatory positions determined mobile viewing hadn't reached a threshold requiring inclusion in the prominence regime, Ofcom's latest consultations signal this stance may evolve as viewing habits shift. The regulator continues to prioritize ensuring public service content is "easily accessed, found and discovered" across all major distribution channels.

United States: Cable + satellite must-carry local broadcast stations (accessibility); no online or streaming

In the US, must-carry provisions apply at the federal level and require cable TV operators and satellite carriers with local-into-local service to carry local broadcast stations, which can either demand carriage without compensation or opt for retransmission consent to negotiate payment. Must-carry is designed to ensure the availability of local stations and does not dictate any type of content although provisions aimed at ensuring accessibility for people with disabilities require audio description and closed captioning for TV for new, non-exempt English language programming. The Supreme Court has upheld the compatibility of must-carry regulations with the First Amendment, rejecting assertions that such must-carry laws undercut editorial independence, amounted to government-compelled speech, or violated property rights. Federal must-carry rules do not apply to digital platforms or online streaming services although in 2014 the FCC considered updating its rules for video streaming services, opening a public consultation on the topic without adopting final rules.

Analysis

Resistance to regulation requires innovations in regulation

Tech exceptionalism — an ideology prioritizing innovation over regulation in the tech sector — paired with the dominance of platforms, whose physical operations are often situated outside of a given jurisdiction, have limited the use of many tried and true practices for regulating communications platforms. Meta and Google have enormous control over social media, search and digital advertising in most OSCE markets — so much that their market dominance could be considered “monopoly control” according to both legal rulings and competition inquiries. This concentration of monopoly power looks likely to continue in the artificial intelligence sector. Meta and Google have diminished the availability and prominence of journalism and fact-checking on their platforms in recent years, while continuing to reap monopoly rents from their duopolistic control of digital advertising and using this content to build their latest AI systems without consent, compensation or credit.

Another way that platforms resist fair remuneration and other regulation is by threatening to “exit” a particular market if such regulation is imposed. In 2021, when Australia debated what became the News Media Bargaining Code, Meta temporarily removed news and government services content from its platforms in opposition to the proposed legislation, only restoring access after securing amendments to the law. After failing to deter a similar law in Canada to require platforms to compensate publishers, Meta permanently banned news publishers on Facebook and Instagram. Meanwhile, Google conducted limited “tests” removing news from search results in Canada and several European Union countries, dropping news from Spain for seven years when asked to pay for it in response to similar legislation. In France, however, regulators prevented Google from executing such tests, ruling that removing news would constitute an abuse of its dominant market position and forcing the company to negotiate with publishers under the EU Copyright Directive's neighboring rights provisions. These lobbying efforts, political pressure and circumvention of regulatory initiatives reflect Big Tech's responses to legislation requiring payment for news content appearing on their platforms.

Advantages to must-carry provisions

The underlying problem of media visibility, interlinked with aspects of economic viability, arises in the presence of a limited number of carriers whose profit motives are not well aligned with the public interests of society. Today, the dominant platforms make their money by advertising, which increases with engagement, which often increases with sensationalism, polarization, enragement. Thus, with this business model, broad coverage on a neutral basis of highly relevant news as public interest information may be less profitable than promoting a short video of something outrageous. There is a clear

divergence between private and social interests. While must-carry provisions are not likely to ensure that a platform acts in the public interests, it can mitigate some harms.

- Existing must-carry laws aim at ensuring access to diverse, local and public interest content when the market is dominated by powerful intermediaries, such as in broadcast radio and TV as well as cable and even satellite television.
- Similar regulatory approaches for the digital space could be a realistic short-term type of regulation because it recognizes that “natural monopolies” and oligopolies do exist (for example private gatekeepers and network operators) for various reasons while still mandating the carriage of particular content deemed essential for public information and cultural preservation. They are not restructuring per se the entire information ecosystem as a more long-term intervention, nor addressing the market power of dominant platforms.
- Must-carry provisions could help prevent platform exit from news and can deter retaliation or intimidation against categories of users.
- Must-carry provisions could balance the interests of content creators who want to reach audiences, distributors’ control over its transmission capacity and rights to freedom of expression, as well as the public’s interest in accessing information deemed to be in the public interest.
- Must-carry obligations could contribute to the economic sustainability of news organizations by making them less susceptible to the whims of the platforms they depend on to reach their audiences.

Limitations of must-carry provisions

The cost of must-carry provisions of news on digital platforms per se may be marginal as having more content and thus digits on a platform is close to zero. But, of course, that’s not what the platforms are concerned with. They are concerned with attention (“eyeballs” and engagement time), and thus with how their algorithms determine who sees what. For the digital platforms, a must-carry provision that requires giving some prominence to news would entail costs as it might detract attention from an advertising (and money-making) generating display. Moreover, ascertaining the attention given to news of public interest and civic relevance is not an easy task compared to ascertaining whether such news is accessible somewhere on the platform. But in today’s world of attention scarcity, the accessibility and visibility of content is relevant, not only the mere availability on a platform. At the same time, must-carry provisions are contested due to risks of content control, especially by States. There remain fundamental questions as to who should benefit from such provisions and who decides who benefits.

Risks of must-carry provisions and how to address them

- The biggest challenges and simultaneously greatest risk are the decisions about what content is to be carried — regarding the criteria to establish which content constitutes public interest news, regarding who makes such decisions and what is the process for them. Such determinations can easily become politicized and/or captured by those in power or special interests. Even if done in good faith, it needs to be considered that any interference in market dynamics by giving statutory prominence to certain news and not others, e.g. only to public service media, can impact the availability and accessibility of public interest information more broadly. Moreover, in some context, captured regulators have misused visibility policies to control the information that is given prominence online and undermined independent journalism's possibilities to provide public interest information on social media platforms. This risk might be mitigated by ensuring that the administration of must-carry is done through frameworks that aim at guaranteeing its editorial independence — much as public broadcasting in many countries is managed through independent agencies. Many examples show that the provision of public interest news can be done in a fair and trustworthy way.
- There may not be full or good faith cooperation between the public regulatory authorities and the private owners of the platforms; the latter will seek to promote their advertising/revenue raising messages at the expense of public interest messaging. This is akin to a standard regulatory problem, though here it takes a new form. At the same time, cooperation has in some cases been misused for authoritarian intentions. The potential effectiveness of must-carry provisions hence strongly depends on rule of law, independent regulatory bodies, and robust human rights safeguards.
- Public consultation is essential while must-carry provisions are being drafted. Civil society, journalism organizations and other stakeholders need to be represented.
- Robust democratic oversight and rules about equal time/diversity and plurality would need to be built into the regulations.
- The structure and composition of oversight bodies would need to be safeguarded by the appointment of independent regulators from multiple political parties as well as codes of conduct and agreed upon definitions.
- If provisions are passed, consultation and transparency must continue after their adoption. This can include notifications to the public of planned legislation/regulations as well as public hearings and periods for the public and civil society organizations to comment.
- There will need to be continual independent auditing and ex post monitoring, to ensure that material falling within the must-carry ambit does in fact receive fair and equitable treatment and serve the public interest.

- It must be recognized that even functioning must-carry provisions do not fully address the entrenched concentrated power of dominant platforms over news distribution, and there remain questions as to their effectiveness. It is not a silver bullet to ensure healthy online information spaces. Must-carry provisions need to be paired with other policies that mitigate anticompetitive behavior, reduce structural dependencies, and encourage diverse alternatives that enable media to connect with audiences, gather first party data, and obtain a fair share of the value they generate.

Considerations and conclusions

Must-carry provisions have successfully been used to pursue a variety of goals in media systems around the world, but have only begun to be considered for or applied to digital and online platforms.

A healthy information ecosystem with competitive and fair markets is essential for a well-functioning economy and democracy. There is a broad consensus that in most countries today, the information ecosystem is not healthy as a few platforms dominate how we search for information and socialize, and render our data into digital advertising revenues, and there are worries that matters may be getting worse. Much of the attention in the regulatory sphere has been on digital harms and how to limit them — to limit hate speech, incitement, mis- and disinformation, etc. But focus must be given to how to promote information of value to society. The profit motives of the digital platforms are simply not well aligned with the interests of broader democratic society.

Must-carry provisions can and have helped ensure a market for certain types of content that otherwise would struggle. They could help support creative industries and professions, like local journalism and filmmaking, by ensuring that more diverse information and cultural content is produced, distributed, and easily accessible — not just somewhere on the platform, but somewhere where it gets the attention of relevant individuals. At the same time, must-carry approaches alone will not solve the challenges of disinformation and propaganda or fix the monopolized markets or broken economic structures of the news media, they entrench the distribution power of these very same platforms and might thus increase dependencies or disincentivize investments into alternative infrastructures or distributions channels. They can, however, be part of a media freedom-oriented solution in certain contexts, just as news media bargaining codes can constitute necessary measures but are insufficient to ensure media viability on their own.

Another point to consider is how must-carry can be applied to the new Generative AI models that provide news and information. Given that generative search or answer engines, chatbots, and AI content generators are increasingly replacing traditional search and social media, how would must-carry apply to these emerging platform interfaces and retrieval systems? Should there be must-carry provisions for large language models, or for downstream applications controlled by existing dominant gatekeepers?

Well-designed must-carry regulations will include safeguards against political manipulation or capture, with clear criteria for qualifying content and transparent oversight mechanisms. Furthermore, the utility of such regulations could be limited in authoritarian systems that lack independent regulators or are susceptible to political capture. The definition of what constitutes “news”, “journalism” or “public interest” content must be carefully crafted with the profession, include safeguards to prevent abuse, such as independent oversight and transparent criteria and remedies. Ensuring that these criteria are clearly defined and free from political manipulation is essential to ensure media independence.

The authors conclude that must-carry provisions as government interventions in media markets could help promote pluralism, localism, and the democratic function of communication infrastructure when market forces alone might not achieve these objectives. A balanced and rights-respecting adaptation of must-carry regulations to dominant digital platforms could thus be an important part of the public policy toolkit aimed at safeguarding the public’s right to access diverse and reliable information in the digital age. By drawing lessons from the historical application of must-carry obligations and carefully considering today’s reality and the effect of digital platforms, this policy brief tries to provide considerations for developing regulatory frameworks to ensure media viability and foster a healthy information ecosystem by confronting market imbalances, consistent with the principles of media freedom and pluralism.

Acknowledgements

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