



MEDIA SECTOR GOVERNANCE: REGULATION (LAW, CO-REGULATION, OR SELF-REGULATION)

STANDARD SETTING DOCUMENT

This document is part of a series of Standard Setting Documents prepared by Maharat Foundation to stimulate public discourse on media law reform in Lebanon in line with freedom of expression. This comes within the framework of the "Media Reform to Enhance Freedom of Expression in Lebanon" project, implemented in collaboration with Legal Agenda and Media and Journalism Research Center, with the support of the European Union.

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Key messages

- Any media regulation in Lebanon must be carried out towards protecting media freedom, ensuring the diversity and sustainability of the media system, and promoting transparency in media ownership and funding.
- It is essential to guarantee the independence of the authority overseeing the regulation process, evaluating it, and forming it through a participatory mechanism that defines its powers. The law should focus on regulating media outlets rather than addressing how to deal with social media.
- A serious examination of co-regulation and self-regulation frameworks is necessary by finding achievable goals, such as the protection of minors, which unite various stakeholders and gathers public support, thereby forming a basis for an effective co-regulation model.
- Comprehensive thinking across multiple sectors is crucial in policy innovation in the digital age, as different fields are interconnected and can support one another.
- Any regulation must adopt a citizen-centered approach in the current complex media environment so that citizens feel involved with local media.
- Regulation in the digital age must be accompanied by media and digital literacy.

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Summary of the main recommendations



To the authorities:

- Amending the laws that regulate media in Lebanon should ensure media freedom, diversity, and sustainability of the media system. It should not lead to control over the public sphere but rather enhance trust in local media.
- Guaranteeing the independence of any authority formed to regulate the sector, with clear definition of its powers and enabling it to perform its duties.
- Providing opportunities for self-regulation regarding media content and respecting professional ethics.



To the media sector:

- The journalistic community must unite to establish self-regulation mechanisms for their professional conduct without the interference from the authority or the government.



To the international community:

- Enhancing exchanges with international organizations dedicated to the development of the media sector and regulatory bodies concerning lessons learned and best practices for media regulation in the complex digital age.

There is no single comprehensive legal framework regulating the Lebanese media sector. The existing regulatory structure is significantly fragmented, with each major media sector (print, television, and radio) governed by its own set of laws. The "newest" of these laws, pertaining to the broadcasting sector, has been loosely adhered to since 1994. The oldest of these laws, concerning the print press, is somewhat based on centennial memories, still promoting the long-outdated legacy of the Ottoman Empire (the system of privileges and concessions)! As for digital media, there is no applicable regulation so far. "Chaos" is the recurring term used by legal experts and media professionals when asked to describe the reality of digital media platforms.

In any case, the current regulations do not conform to international standards and best practices in media regulation. The journalistic community is under strict government scrutiny, with unions that are supposed to represent and defend their rights being public law institutions rather than professional organizations. All "regulatory" committees, if they exist and are operational, lack independence from the government. As a result, the legal status of journalists in Lebanon is subject to political considerations, violating international standards of freedom of expression.

Lebanon's media law has seen no significant developments or legislative changes over the past thirty years. The only progress reflects efforts by civil society groups, journalists, and activists to raise public awareness about the importance of freedom of expression in building transparency and democracy in the political system. They call for serious changes in the country's media laws, hoping to make them compatible with the latest media developments and international standards for freedom of expression. Local media exploit loopholes in the laws and/or influential connections and patronage to breach regulations according to their interests. Oversight structures, although outdated, like the National Audiovisual Media Council, are sometimes revived under political circumstances, allowing political/economic forces to "exploit" and use the media, enabling political/economic interests to prevail.

In the digital age, it is crucial to consider regulation not within the traditional restricted framework of terrestrial radio and television broadcasting but within an open world of media convergence over the internet, subject to general controls related to protecting public order on one hand and guarantees of individual and collective rights and freedoms on the other. Courts of general jurisdiction naturally have jurisdiction over criminal law, competition law, press law, and intellectual property law matters. It is essential to apply these rules according to international standards negotiated within the framework of international agreements.

Best practices in media sector regulation require distinguishing between the following issues:

First: In the matter of licensing for radio and television broadcasting services:

The recommendation is not to expand licensing mechanisms unnecessarily. Here, a distinction should be made between three types of broadcasting services:

1. Radio and television broadcasting services using terrestrial waves or digital multiplex channels should be licensed through a public tender process, with licensing linked to the use of terrestrial or digital multiplex waves, and these channels must adhere to specific terms and conditions.
2. Television and radio broadcasting services outside terrestrial waves and channels (cable, satellite...) are not subject to licensing and public tender procedures but are governed by general principles of competition, limits on media ownership concentration, consumer protection, and public interest protection, as well as ownership and funding transparency provisions.
3. On-demand audiovisual media services do not require any form of licensing.

Second: Establishing Print and Digital Media

The establishment of print or digital media projects cannot be subject to any form of licensing or permits. The principle is simply to submit a notification to confer professional status to the media institution for those founders of media projects who wish to do so.

Third: Media Content Governance

Here, it is necessary to distinguish between three cases as follows:

1. Broadcasting channels that require a license must adhere to the terms and conditions on which their licenses were granted. These are very general conditions related to content, such as a license granted to a music channel. Such a channel cannot overnight switch to broadcasting religious content, for instance, without notifying the regulatory authority. This type of "content regulation" is widely accepted.
2. Substantive content regulation involves setting legal provisions either in the media law, telecommunications law, or electronic transactions law, with specific content rules such as limits on advertising content or obligations not to broadcast content considered harmful to children. (For example, this is done in Europe according to EU directives). This type of regulation is also widely accepted.
3. The third case, which some countries attempt to introduce within the scope of content regulation, is "subjective content regulations," such as penalizing media outlets for broadcasting misinformation or false news. This is problematic and should not fall within the authority's powers or content regulation because these rules, being open to interpretation, can be easily manipulated and exploited, thereby restricting media freedom and the free circulation of information.

In all cases, content regulation according to the first and second scenarios—compliance with licensing terms and general substantive content regulation—applies only to licensed broadcasting channels.

For satellite or cable broadcasting channels, the second scenario can apply, as this type of substantive content regulation forms globally accepted rules but should be tailored to the local context. (Note that satellite broadcasting requires only a declaration and automatic approval for broadcasting, with no content restrictions since the audience voluntarily subscribes to the broadcasting service. The issue in Europe, for instance, relates to copyright, where broadcasters prefer to pay these rights in one country, making a single payment, and then broadcast under automatic approval in other countries.)

Fourth: Professional Ethics and the Authority's Powers

Professional ethics do not even fall within the scope of content regulation but are a completely separate matter. They are related to professional issues that should be left to the sector itself. All that the regulatory authority can do is encourage the journalistic community to self-regulate. The task of drafting codes of conduct and ethics should be left to the journalists themselves to set rules regarding compliance with standards. The authority should not intervene here, nor does it have a role in drafting these codes. The journalistic community must unite to establish self-regulation mechanisms for their professional conduct without interference from the authority or the government.

List of Standards



- 1. Balancing the protection of values and citizens' rights** (pluralism, democracy, human dignity...) with a competitive and innovative media market that fosters sector growth is crucial. Any media regulation should be guided by two principles: the fundamental principles of freedom of expression, which should drive regulation, and the proper functioning of media markets.
- 2. Always consider the vision and objective of regulation.** In Europe, the goal is to ensure media pluralism, focusing on the rights and needs of citizens. Thus, regulation aims to protect individuals from the concentration of media power, whether by the state or private companies.
- 3. Regulatory bodies tasked with regulation and policy issuance to address challenges in the evolving information environment must be independent** from public and commercial entities. They should reflect the diversity within society.
- 4. The powers of the authority should include issuing licenses, monitoring complaints** about programs, enforcing legal obligations, and formulating policies. A distinction must be made between media that require licenses (broadcasting channels) and those that do not (print media and digital platforms).
- 5. Transparency is essential.** The authority must publish its budget and financial statements.
- 6. Regulation should be minimal, opening the door to co-regulation and self-regulation,** where all relevant stakeholders participate in these discussions.
- 7. There should be a distinction between traditional media and digital media** like social media platforms. Social media is not considered media even though media outlets exist on these platforms. Therefore, the law should focus on regulating media rather than on how to handle hate speech online, for example.
- 8. Any media legislation should contain precise definitions** of what is included within its scope, as laws may become overly regulatory if not well-defined.

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The general framework and discussion topics

This standard setting document is part of the "**Media Reform to Enhance Freedom of Expression in Lebanon**" project, in collaboration with Legal Agenda and the European Media and Journalism Research Center, supported by the European Union. It is based on two research papers covering this subject prepared by Dr. Nidale Ayoub, titled "**Media Regulation in Lebanon: Facts and Perspectives**", and the European expert Dr. Minna Aslama Horowitz, titled "**A balancing act: EU media regulation, co-regulation and self-regulation in the digital age**".

The **first paper**, prepared by Dr. Nidale Ayoub, provides an overview of the regulatory framework for media in Lebanon. It highlights the absence of a single comprehensive legal framework regulating the Lebanese media sector, noting that the existing regulatory structure is significantly fragmented. Additionally, the laws that are supposed to regulate the media landscape and performance are outdated, distorted, and largely misinterpreted and manipulated. Furthermore, there is no applicable regulation for digital media institutions yet.

The **second paper**, prepared by Dr. Minna Aslama Horowitz, discusses European Union policies concerning traditional media in the context of digitalization and their relationship with legal regulation, co-regulation, and self-regulation within member states. The paper focuses on several fundamental principles and specific regulations, such as guidance on audiovisual media services and competition regulation in public broadcasting bodies. It also explores key concepts and best practices in co-regulation and self-regulation governance, providing various examples including protection of minors and combating media misinformation.

This standard setting document also drew from the conclusions of a seminar hosted by Maharat in Beirut titled "Media Governance: Which Regulation (Regulation, Co-regulation, or Self-regulation)?" on January 17, 2024. The seminar brought together deputies and representatives from various regulatory bodies, judges, experts, academics, and journalists. It addressed the governance of the media sector, optimal methods for its regulation, and raised the issue of ensuring the independence of the media regulatory authority and defining the scope of its powers under media law to align with freedom of the press as a fundamental right that must be safeguarded.

The seminar took place during a time of renewed discussion on the draft media law in Lebanon, within a sub-parliamentary committee formed by the Administration and Justice Committee. This came after Minister of Information Ziad Makary proposed amendments to the latest version of the draft in collaboration with UNESCO. Among the proposed amendments was the issue of appointing the media regulatory authority and proposing the establishment of a Media Council within the framework of co-regulation.

The seminar shed light on international and European experiences with models of media regulation, delineating the powers of regulatory authorities and what falls outside regulatory frameworks. It addressed how to ensure the independence of these authorities and their ability to carry out their tasks and enforce their decisions. The seminar also reviewed the Lebanese context, especially concerning proposals related to media regulation in current laws and those under consideration by the parliamentary Administration and Justice Committee.

The session included a speech by Deputy Georges Okais, Chairman of the Subcommittee, emphasizing three principles: firstly, translating any law to ensure Lebanon's constitutional commitment to freedom of expression; secondly, minimizing restrictions on access to media platforms as much as possible to ensure universal access; and thirdly, aligning the law with digital advancements and modernization necessary alongside the enactment of the media law.

The seminar hosted European expert Marius Dragomir from the European Media and Journalism Research Centre and international expert Toby Mendel, who collaborated with UNESCO. Each presented principles that should be considered in media regulation based on comparative experiences and the specificities of the Lebanese context.

Following the presentation, the legal expert from Maharat, Dr. Tony Mikhael, provided a summary comparison of current proposals for media laws before the parliamentary committee, particularly regarding the formation, powers, and independence of the media regulatory authority. Subsequently, discussions were open among deputies, representatives of independent bodies, lawyers, journalists, and media professionals who presented their perspectives.

Participating deputies Firas Hamdan, Halime Kaakour, and Ibrahim Mneimneh emphasized rejecting sectarian quota and distribution in the context of a media regulatory authority, insisting that any regulatory body must be formed in a manner that preserves freedoms and diversity in its operations. They advocated for using participatory mechanisms involving associations, unions, and civil society organizations as the safest way to ensure that the authority does not exceed its powers and boundaries. They outlined the three pillars of any independent authority, including those defined by media law: administrative and financial independence, moral personality, and immunity from guardianship authority. Deputy Hamdan also stressed that licensing for electronic media, which have broadcasting capabilities, should be outside the authority's scope.

Experts and heads of regulatory bodies presented experiences in forming independent bodies in various sectors in Lebanon and drew lessons, particularly concerning their formation, independence, performance of duties, and the resources necessary to support them.

Journalists called for more transparent discussions, urging current deputies to prevent the passage of detrimental provisions and mitigate potential harms through thorough deliberations and sessions to identify reforms that could be included in any new media law. Journalists also expressed concerns that establishing any authority could lead to restrictions on freedoms.

On the Governance Level

- The necessity to define the objective of any regulation of the media sector, balancing between protecting values and citizens' rights (pluralism, democracy, human dignity...) and fostering a media market that includes competition, innovation, and sector growth.
- The importance of enhancing legal frameworks related to public media to align with national media regulation objectives, promoting diversity and variety in the media landscape.
- Ensuring the independence of the media regulatory authority in law, away from political and sectarian quotas. It should be mandatory to utilize participatory mechanisms in its formation from unions, associations, and civil society organizations as the safest method to prevent the authority from exceeding its powers and boundaries. Leveraging the experience of recently formed independent bodies is beneficial.
- Guaranteeing administrative and financial independence of the authority not only in law but also granting it moral personality and shielding it from guardianship authority or hindrance in approving its internal regulations or accessing its resources, especially considering the economic situation in Lebanon where financing can be challenging.
- Avoiding jurisdictional conflicts between existing administrations and bodies concerned with the media sector. Two issues arise: the fate of the Ministry of Information and how to define the relationship between the authority and the ministry to prevent jurisdictional conflicts. Regarding the role of media during elections and the authority of the electoral supervisory body concerning media monitoring and electoral advertising, how can these competencies be reconciled?
- Taking into account the Venice Commission's recommendations on carefully and precisely defining the authorities' powers without unnecessary expansion, ensuring that internet and digital spaces remain unregulated at least for the current period until the authority gains credibility, with a focus on the importance of transparency in its operations.
- Limiting the authority's powers to issuing licenses for visual and auditory media. If the authority is influenced by specific political or commercial entities, it could control all public space, especially if its powers extend to digital content published on websites. Therefore, ensuring the independence of this authority and defining its powers in a way that does not affect or monopolize public space is essential and necessary.
- Including transparency principles in the ownership and funding of media outlets and integrating transparency monitoring within the authority's responsibilities.
- Ensuring the quorum for the authority to make decisions, considering that certain factions could hinder its function by not attending. Additionally, there is a challenge if there is insufficient participation from effective members, where only three members could potentially function, as demonstrated by the experience of some bodies.

On the media institutions level

- It is essential upon the journalistic community to unit towards forming self-regulation mechanisms for their professional conduct without interference from the authority or the government. Ethics in the profession should not even fall within the scope of content regulation but are a completely separate matter related solely to professional issues that should be left to the sector itself.
- The media body should keep pace with legislative work, especially since the issue of regulation must be participatory.

on the international level

- Supporting exchange programs with stakeholders in the media sector in Lebanon, including lawmakers, experts, civil society, and journalists, through workshops and meetings to engage in current discussions on media regulation in the complex digital age.
- Supporting exchange programs with bodies involved in media regulation and those that have succeeded in Co or self-regulation experiments.

