

Media reform

Istitut Ġurnalisti Maltin
Response to public consultation





Media reform

Introduction

The IGM welcomes the opportunity to contribute to this vital consultation on media reform. A free, viable, and independent media is not a luxury but a fundamental pillar of a healthy democracy. The current economic, structural, and legal challenges facing the industry are not merely commercial or technical issues; they represent a direct threat to the democratic function of the media in Malta.

Our response is informed by several discussions among our members and executive council. We urge the government to adopt a comprehensive and bold package of reforms that strengthens freedom of expression and legal protections for journalists, secures the economic viability of the media sector, and unequivocally upholds the principle of media independence.



On Bill 17

Proposed committee for the protection of journalists

The IGM has serious and fundamental reservations about the proposed Bill 17. After careful consideration and feedback from the sector, we cannot support the bill in its current form and recommend it be withdrawn entirely.

Lack of Trust and Impartiality

The core function of protecting journalists must be built on a foundation of trust. The proposed composition of the committee—consisting solely of the Permanent Secretary, the Police Commissioner, the Head of the MSS, and the AFM Commander—fails this test. This structure raises legitimate concerns about impartiality, particularly when dealing with journalists who are critical of the government or state agencies. There is a palpable fear that risks to journalists perceived to have a particular political leaning may not be assessed objectively.

Duplication and Lack of Oversight

The proposed committee's functions are already, in principle, part of the police's remit. The solution is not to create a new, unaccountable body but to ensure the police are properly equipped and mandated to perform these duties effectively. Furthermore, the committee as proposed has no parliamentary, judicial, or independent oversight, making it answerable only to the executive.



On Bill 17 (cont.)

Proposed committee for the protection of journalists

Our Proposed Alternative

The police ought to be encouraged and empowered to continue with their protection of journalists. The police have an internal risk assessment tool when dealing with such cases that determines the type and level of protection required. This tool has been used, suffice to say that in 2024, it was the police that approached the IGM to offer personal protection to journalists who were going to be outside court covering the arraignment of former Prime Minister Joseph Muscat.

However, in cases where journalists still feel unsafe despite police action or inaction, an independent review body, composed of a retired judge, journalistic professionals, and civil society representatives, could be established to review police decisions related to personal safety. Its scope must be strictly limited to issues of harassment and protection, with no mandate to monitor journalistic activity or sources.

We also urge the government to improve physical and digital security protocols for journalists in high-risk environments like courtrooms, and to address the specific threats they face from subjects of their reporting, including online harassment and intimidation by family members. Court reporters are often doing their job in tiny courtrooms sitting shoulder-to-shoulder with family members of accused criminals. This is a security risk that must be addressed as soon as possible, and IGM is ready to help find solutions to this.

The IGM would also like to point out the specific risks faced by broadcast journalists and camera persons when reporting on the ground. Over the past year, IGM received multiple reports of journalists, especially those working for political party media, being harassed or assaulted while reporting on political activities.

On Bill 18



Constitutional amendments

The IGM fully and unequivocally endorses the final recommendations of the Committee of Experts regarding constitutional reform.

We strongly agree that the protection of media freedom and journalistic source protection must be explicitly and forcefully entrenched in Chapter IV of the Constitution, making these rights directly enforceable by the courts, rather than remaining as non-enforceable principles in Chapter II. Moving these rights from “principles” to “fundamental rights” would give journalists a powerful, primary legal weapon to fight off attempts to uncover our sources, to challenge restrictive laws, and to defend our work in court. It will also represent a bold statement by the State that it values journalism as an essential component of a democratic society.

We further call for the constitutional recognition of the right to access information held by the State and public administration, and the corresponding obligation of public authorities to provide such information in a timely manner. This would elevate the right to information to a fundamental constitutional right, shifting the balance of power from a state that hoards information to a public that has a right to it.

The proposed constitutional changes as outlined by the Committee of Experts will undoubtedly fulfil the Labour Party’s 2022 electoral pledge (Pledge 915) to recognise the media as the “fourth pillar of democracy” by entrenching this principle in the Constitution.

On the criminal code

Aggravated offence: The IGM agrees with the proposed amendment to Article 221 of the Criminal Code that will make any attack on journalists and media workers an aggravated crime. This will underline the importance of journalistic work and create a bigger deterrent for those who have no qualms in accosting journalists and media workers while on duty.



On defamation and libel

The IGM believes the current legal instruments available to people seeking redress for alleged defamation are adequate. On the other hand, certain provisions to support journalists in their work are required.

Scale of Damages

The IGM cannot but note with concern suggestions made by several Labour MPs for libel damages to increase from their current limit. The IGM disagrees with this and any tinkering with the maximum amount risks having a chilling effect on free speech.

Our judicial system has, in practice, demonstrated restraint in awarding libel damages, very rarely granting the highest amount possible. The courts have shown no pressing concern over the current limit for libel damages, either. We are concerned that any move to increase the scale of compensation would cripple media houses and create an environment ripe for Strategic Lawsuits Against Public Participation (SLAPPs).

Expedited Processes and ADR

We support reforms to make libel procedures more expedited. We specifically recommend that the judiciary actively encourages Alternative Dispute Resolution (ADR), such as mediation, at the earliest stages of a case. This option already exists in the law as amended in 2018, however, it has rarely, if ever, been used. The judiciary must proactively engage with the parties to explore this option during the preliminary hearing. This provides a cheaper, faster path to resolution for all parties and helps avoid protracted and costly court battles.



On defamation and libel

Death of an author or editor

The IGM agrees with the legal provision being proposed by the Committee of Experts that if an author or editor dies while legal procedures for defamation are pending and the case continues against the heirs, the court should not award damages against the heirs but only limit itself to ruling whether defamation did occur or not. This proviso will not apply if the case can continue against a person responsible for the publication where the libellous article would have been published.

No precautionary freezing of assets

The IGM agrees with the proposed change to the Code of Organisation and Civil Procedure that removes the possibility of requesting precautionary warrants to freeze personal and company assets in cases involving libel and defamation.

Postponement of court charges

The IGM agrees with the proposed change to Schedule A (Tariff A) in the Code of Organisation and Civil Procedure that any charges due to the court in libel and defamation cases will not be paid at the onset when a reply is filed but after the end of the case and according to the court's ruling.



On anti-SLAPP

The IGM notes that the proposed anti-SLAPP provisions included in the bill currently before parliament and the proposed amendments by the Committee of Experts have been overtaken by the adoption of the anti-SLAPP directive last year through legal notice. Nonetheless, the IGM believes the current anti-SLAPP framework needs to be strengthened to provide the comprehensive protection required to shield Maltese journalists and media houses from abusive litigation.

The IGM proposes the following changes to the existing anti-SLAPP framework:

Enact a Standalone Anti-SLAPP Act: The provisions must be consolidated into a dedicated Act of Parliament thus preventing arbitrary amendment.

Widen the Scope of Protection: The law must also protect against domestic SLAPP cases of any legal nature and not only cross-border SLAPPs.

Increase Dissuasive Penalties: We propose significantly increasing the financial penalties for abusive claimants to a level that acts as a genuine deterrent. The current framework sets the dissuasive penalty at a maximum of €10,000. This should increase significantly, considering that SLAPP cases are overwhelmingly instituted by companies or individuals who have disproportionate means at their disposal when compared to the people and entities they are targeting. The IGM agrees with proposals that suggest the maximum dissuasive penalty should go up to €100,000.

Include Protective Provisions for Defendants: The law must explicitly state that a Maltese court, when deliberating on a request to enforce a foreign court's judgment, shall not hold it against a journalist or media outlet if they chose not to defend a case (kontumaċi) in a foreign jurisdiction, recognising the prohibitive costs involved.



On anti-SLAPP (cont.)

Implement a Holistic Support System: Malta's actions must extend beyond judicial reform to include vital non-judicial measures, as recommended by the EU and the Committee of Ministers:

Victim Support: Establish a dedicated government office or fund to provide legal, financial, and psychological support to individuals and small media outlets targeted by SLAPPs.

Judicial Training: Mandate comprehensive training for judges and magistrates on identifying SLAPPs, understanding their chilling effect, and applying the new anti-SLAPP legislation effectively.

Public Awareness: Launch a public awareness campaign to educate citizens, businesses, and public officials about the nature of SLAPPs and their threat to democratic discourse.

Transparency and Reporting: The Minister of Justice should be obliged to publish an annual report to parliament detailing the number of SLAPP cases filed in Maltese courts and their outcomes, to ensure transparency and monitor the scale of the problem.



On self-regulation

The IGM's position on regulation is clear and principled: Any form of regulation must be self-regulation, entirely free from state or political influence.

We are firmly opposed to any law that would impose a regulatory framework, code of ethics, or disciplinary measures on the journalistic profession. This would constitute a form of state capture that is fundamentally counter to the right of free expression and press freedom. A journalist's primary role is to hold power to account; they cannot be subject to regulation of their profession by that same power.

The IGM maintains that the sector itself must be entrusted with safeguarding its ethical standards. This is a complex process that must be owned and driven by the media industry. It is not an easy task because the Maltese media landscape also includes media organisations controlled by the two major political parties.

Nonetheless, the IGM has been proactively working for years with foreign experts and partners to draw up a blueprint for a potential independent, self-regulatory media council. We are attaching the strategic report commissioned by the IGM to our feedback. We emphasise that this is a long-term, sector-led initiative, distinct from the present government-led reform. Any future code of ethics must emerge from within this self-regulatory framework, not be imposed upon it by the state.



Economic measures

The market alone cannot fund the journalism our democracy needs. Low pay is driving talent out of the industry, and media houses are constantly under financial strain. Something must be done to support media houses while at the same time ensuring that there is zero impact on their impartiality or editorial direction. It would be a big mistake if government assistance is construed as a tool to award loyalty and punish critics. Any support measures must have only one aim: Ensuring long-term sustainability of the media in a pluralistic environment because it is essential to a healthy democracy.

The IGM believes that a Sustainable Media Democracy Support Package should be discussed between the government, media owners, and journalists. This package can include a wide range of support measures that range from company and individual tax incentives to grants and the fair and transparent distribution of advertising expenditure.

A detailed blueprint for such incentives, including proposals on the fair apportionment of government advertising, was previously developed by the sector. We urge the government to use this existing work as a foundation, rather than reinventing the wheel.



On the FOI Act

The current FOI Act is not fit for purpose in the digital age. Delays of a month or more in processing requests render the mechanism practically useless for journalists working on timely stories. This undermines the public's right to know—an essential aspect of the right to freedom of expression—and fosters a culture of secrecy.

We call on the government to:

1. Urgently reform the FOI Act to drastically shorten the legally mandated timeframes for responses.
2. Shift the culture of FOI implementation so that the default position is disclosure, and the withholding of information becomes the exception, not the rule. Vague or "silly" excuses for non-disclosure must be eliminated.
3. Eliminate fees that public authorities may request for publishing the requested information when such a request is being made by a media house or journalists.
4. Immediately publish the long-overdue report on the FOI Act to provide transparency on the government's own findings and recommendations. This is a simple matter of transparency and good governance. The government should lead by example, and withholding this report undermines the very reform we are engaged in.



Trust and media literacy

The IGM believes it should not be up to any government to define what “trustworthy” journalism is. Instead, we propose a two-pronged approach.

Educational Campaigns

The government has a responsibility to help the public navigate the modern information landscape. We strongly recommend the launch of independent, publicly-funded educational campaigns on the importance of consulting trusted news sources, and on how to identify misinformation and disinformation, especially on social media. The misuse of AI in generating false content makes this more urgent than ever. Media literacy should also be integrated into the national school curriculum, starting from primary school level.

Political Responsibility

Trust in the media is also built when there is an aura of respect for the institution of journalism. Politicians and public figures bear a significant responsibility in this regard. Persistent attacks, including exclusion and ridicule, on the media and individual journalists by political actors directly erode public trust and must cease.

For too long, politicians have demonised the media as the “enemy of the people” while bemoaning a lack of trust. The demand for government-led educational campaigns forces the state to be part of the solution, and the call for an end to political attacks places responsibility where it belongs—at the feet of those in power whose words have real-world consequences for our safety and credibility.



Public broadcasting

The IGM believes that reforms at the Broadcasting Authority and PBS are needed and should happen in parallel.

The BA is the primary regulator of broadcasting in Malta and although it is a constitutional body, its makeup is strictly on partisan lines. Each of the two major political parties get to nominate the BA board, which is anomalous in a situation where the two major parties are also owners of broadcast stations.

So, there is more than a hint of irony when the complaints about PBS news reporting are made by either of the two major parties to an authority where they both have representation.

IGM believes the biggest stumbling block to proper journalism at PBS is coming from the BA with its interpretation of balance—always taken to mean balance between the two major political parties—that is defined in minutes and seconds instead of news value, currency and relevance.

The BA must be reformed to have a board that reflects wider political, social and economic representation. The rules that seem to apply only to public broadcasting also need to be updated to reflect society's need to have a source of information that is fair, ethical and irreverent.

There also needs to be a clear separation between the government of the day and the national broadcaster to remove any perception, real or imagined, that the latter's news agenda is dictated by the former. PBS journalists should be allowed the space to probe, follow stories and question public figures without having to shoulder the burden of being perceived as mouthpieces for the government or any other entity for that matter. The national broadcaster should also be the platform where the different voices in society are given space but also challenged.

Concluding remarks



The IGM stands ready to engage constructively with the government to implement essential reforms that truly protect journalists, fortify media freedom and ensure economic viability.

The status quo is unsustainable. The choices made now will determine whether Malta has a vibrant, independent media capable of holding power to account, or a diminished one that fails its democratic duty. We urge you to act with the urgency and conviction this situation demands.

Endorsements

Times of Malta

MaltaToday

Newsbook Malta

The Malta Independent

Content House