

Opinion of the European Committee of the Regions — Review of the Audiovisual Media Services Directive

(2017/C 185/07)

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Reference document: Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities

COM(2016) 287 final

I. RECOMMENDATIONS FOR AMENDMENTS

Amendment 1

Recital 6

Text proposed by the Commission	CoR amendment
	<p><i>The directive does not preclude Member States from taking measures against audiovisual media services originating from third countries and provided in their territory. These services are not covered by the country of origin principle. In particular, this directive does not exclude imposing an obligation to register audiovisual media services originating in third countries, nor applying sanctions against them.</i></p>

Reason

Audiovisual media services from outside of the European Union may cause serious disturbances to media services, and more precisely to the public sphere, in certain Member States. The country of origin principle does not apply to these services. It is not necessary for this type of legislation to include such a specification, but it is useful — in order to ensure that the directive is interpreted in a uniform manner — for the recitals to mention that Member States are free to take measures against these services.

Amendment 2*Recital 9*

Text proposed by the Commission	CoR amendment
<p>In order to empower viewers, including parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done, for instance, through a system of content descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical or acoustic means.</p>	<p>In order to empower viewers, including parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done, for instance, through a system of content descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical and/or acoustic means.</p>

Reason

The more audiovisual media services use different means to describe content, the more visible this content will be and the more likely it is to be noticed, making it more likely to achieve its purpose.

Amendment 3*Recital 17*

Text proposed by the Commission	CoR amendment
<p>The rule that a product should not be given undue prominence has proved difficult to apply in practice. It also restricts the take-up of product placement which, by definition, involves some level of prominent exposure to be able to generate value. The requirements for programmes containing product placement should thus focus on clearly informing the viewers of the existence of product placement and on ensuring that the audiovisual media service provider's editorial independence is not affected.</p>	<p>The rule that a product should not be given undue prominence has proved difficult to apply in practice. It also restricts the take-up of product placement which, by definition, involves some level of prominent exposure to be able to generate value. The requirements for programmes containing product placement should thus focus on informing the viewers in a clear and easily accessible manner of the existence of product placement and on ensuring that the audiovisual media service provider's editorial independence is not affected.</p>

Reason

The European Committee of the Regions considers it important that not only the content of information, but also its accessibility, makes it clear that the programme includes product placement.

Amendment 4*Recital 30*

Text proposed by the Commission	CoR amendment
	<p><i>In the area of online content, the European Union has, since the second half of the 1990s, granted an important role to non-legal instruments (see in particular the Council Recommendation of 24 September 1998 on protection of minors and human dignity and the Recommendation of the European Parliament and the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry). These instruments, particularly telephone helpline services, age verification systems, content classification and parental control systems, are also effective in regulating content published on online video sharing platforms. Telephone helpline services are an important and widespread way of protecting minors, as they aim to offer users a simple and easily accessible means of making a complaint, and to ensure that the relevant authorities are informed of any infringements. Age verification systems afford an appropriate level of protection, particularly when the age of the user is verified using data from identify documents that are only available for adult users, proof of age from reliable third parties or biometric data. The fact that classification of content by users themselves (parents) or by certification bodies is based on various criteria — violence, sex, gambling, bad language, etc. — enables content available on video sharing platforms to be classified in different categories, which serves as a basis to limit access to such content. Parental control systems enable parents to limit their under-age children’s access to the internet, by means of a list of content suitable for minors or by filtering content that is harmful to children.</i></p>

Reason

The new Article 28a of the directive obliges video sharing platform operators to take appropriate measures to protect minors and to prohibit content inciting hatred. Telephone helplines, age verification systems, content classification and parental control systems are considered appropriate measures. Given the rapid development of technology, the content of such measures cannot be laid down in detailed legal provisions. However in order to ensure that the directive is interpreted in a uniform manner by service providers and the relevant regulatory authorities, it would also be useful for the directive’s recitals to include some explanation of the different measures.

Amendment 5*Recital 38*

Text proposed by the Commission	CoR amendment
<p>This Directive is without prejudice to the ability of Member States to impose obligations to ensure discoverability and accessibility of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in particular examine the need for regulatory intervention against the results of the outcome of market forces. Where Member States decide to impose discoverability rules, they should only impose proportionate obligations on undertakings, in the interest of legitimate public policy considerations.</p>	<p>This Directive is without prejudice to the ability of Member States to impose obligations to ensure discoverability and accessibility of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in particular examine the need for regulatory intervention against the results of the outcome of market forces, lack of transparency of media ownership, media concentration and conflicts of interest. Where Member States decide to impose discoverability rules, they should only impose proportionate obligations on undertakings, in the interest of legitimate public policy considerations.</p>

Amendment 6*Article 1(5)*

Text proposed by the Commission	CoR amendment
<p>5. Article 4 is amended as follows:</p> <p>[...]</p> <p>(d) paragraph 7 is replaced by the following:</p> <p>‘7. Member States shall encourage co-regulation and self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. Those codes shall be such that they are broadly accepted by the main stakeholders in the Member States concerned. The codes of conduct shall clearly and unambiguously set out their objectives. They shall provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at. They shall provide for effective enforcement, including when appropriate effective and proportionate sanctions.</p> <p>Draft Union codes of conduct referred to in Articles 6a(3), 9 (2) and 9(4) and amendments or extensions to existing Union codes of conduct shall be submitted to the Commission by the signatories of these codes.</p> <p>The Commission may ask ERGA to give an opinion on the drafts, amendments or extensions of those codes. The Commission may publish those codes as appropriate.’;</p>	<p>5. Article 4 is amended as follows:</p> <p>[...]</p> <p>(d) paragraph 7 is replaced by the following:</p> <p>‘7. Member States shall encourage co-regulation and self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. Those codes shall be such that they are broadly accepted by the main stakeholders in the Member States concerned. The codes of conduct shall clearly and unambiguously set out their objectives. They shall provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at. They shall provide for effective enforcement, including when appropriate effective and proportionate sanctions.</p> <p>Draft Union codes of conduct referred to in Articles 6a(3), 9 (2) and 9(4) and amendments or extensions to existing Union codes of conduct shall be submitted to the Commission by the signatories of these codes.</p> <p>The Commission shall ask ERGA to give an opinion on the drafts, amendments or extensions of those codes. The Commission shall publish those codes’;</p>

Reason

Self-explanatory.

Amendment 7

Article 1(7)

Text proposed by the Commission	CoR amendment
	<p>in Article 5, the following point (e) is added:</p> <p>‘(e) the identities of the beneficial owners of companies providing media services, in accordance with Article 3 (6) of Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.’</p>

Reason

From the point of view of implementing the directive, it is of crucial importance to have information on the natural persons or legal entities who have a decisive influence on the functioning of service provision and on the decisions of audiovisual media service providers, either due to their ownership or voting rights, or to other rights which they hold under an agreement. The amendment, which aims to enable such persons and entities to be identified, refers to Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Transparency with regard to the ownership of media providers is also an essential prerequisite for media freedom.

Amendment 8

Article 1(10)

Text proposed by the Commission	CoR amendment
<p>10. Article 7 is deleted;</p>	

Reason

Article 7 has been deleted from the directive given that the proposal for a European Accessibility Act already lays down stricter common requirements in this area for media service providers. However, the aforementioned European Accessibility Act has not yet been adopted, and it is not desirable to be in a situation where the directive no longer includes references to accessibility while the new European Accessibility Act has not yet been adopted (or transposed at Member State level). As long as the European Accessibility Act has not been transposed into the legislation of each Member State, the European Committee of the Regions does not approve of deleting Article 7.

Amendment 9

Article 1(11)

Text proposed by the Commission	CoR amendment
<p>11. Article 9 is amended as follows:</p> <p>(a) paragraph 2 is replaced by the following:</p>	<p>11. Article 9 is amended as follows:</p> <p>(a) paragraph 1 (e) is replaced by the following: ‘audio-visual commercial communications for alcoholic beverages shall not be aimed specifically at minors, shall avoid exposure at minors and shall not encourage immoderate consumption of such beverages’</p>

Text proposed by the Commission	CoR amendment
<p>'2. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in programmes with a significant children's audience, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, excessive intakes of which in the overall diet are not recommended, in particular fat, trans-fatty acids, salt or sodium and sugars.</p> <p>Those codes should be used to effectively reduce the exposure of minors to audiovisual commercial communications of foods and beverages that are high in salt, sugars or fat or that otherwise do not fit national or international nutritional guidelines. Those codes should provide that the audiovisual commercial communications are not to emphasise the positive quality of the nutritional aspects of such foods and beverages.</p> <p>The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.;</p> <p>(b) the following paragraphs 3 and 4 are inserted:</p> <p>'3. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes should be used to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic beverages.</p> <p>4. The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. If considered appropriate, the Commission shall facilitate the development of Union codes of conduct.;</p>	<p>(b) paragraph 2 is replaced by the following:</p> <p>'2. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in or immediately preceding or following programmes with a significant children's audience, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, excessive intakes of which in the overall diet are not recommended, in particular fat, trans-fatty acids, salt or sodium and sugars.</p> <p>Those codes should be used to effectively reduce the exposure of minors to audiovisual commercial communications of foods and beverages that are high in salt, sugars or fat or that otherwise do not fit national or international nutritional guidelines. Those codes should provide that the audiovisual commercial communications are not to emphasise the positive quality of the nutritional aspects of such foods and beverages.</p> <p>The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.;</p> <p>(c) the following paragraphs 3 and 4 are inserted:</p> <p>'3. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes should be used to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic beverages.</p> <p>4. The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. If considered appropriate, the Commission shall facilitate the development of Union codes of conduct.;</p>

Reason

Widening the scope of protection of minors.

Amendment 10

Article 1(15)

Text proposed by the Commission	CoR amendment
<p>15. Article 13 is replaced by the following:</p> <p style="text-align: center;"><i>'Article 13</i></p> <p>1. Member States shall ensure that providers of on-demand audiovisual media services under their jurisdiction secure at least a 20 % share of European works in their catalogue and ensure prominence of these works.</p> <p>[...]</p> <p>5. Member States shall waive the requirements laid down in paragraphs 1 and 2 for providers with a low turnover or low audience or if they are small and micro enterprises. Member States may also waive such requirements in cases where they would be impracticable or unjustified by reason of the nature or theme of the on-demand audiovisual media services.;</p>	<p>15. Article 13 is replaced by the following:</p> <p style="text-align: center;"><i>'Article 13</i></p> <p>1. Member States shall ensure that providers of on-demand audiovisual media services under their jurisdiction secure competing European works in their catalogue for at least 20 % of the total duration of programmes that they provide and ensure the prominence of these works, by making sure that they occupy a prominent position and are easy to find in their catalogue.</p> <p>[...]</p> <p>5. Member States shall waive the requirements laid down in paragraphs 1 and 2 for providers, including local authorities which own audiovisual media services, with a low turnover or low audience, if they are local or regional providers, or if they are small and micro enterprises. Member States may also waive such requirements in cases where they would be impracticable or unjustified by reason of the nature or theme of the on-demand audiovisual media services.;</p>

Reason

The addition to paragraph 1 aims to clarify this provision.

With regard to the addition to paragraph 5, it is worth noting that in certain Member States, local television stations for example are not counted as small and micro enterprises as they are owned by the municipality. They may consequently be considered as medium-sized or large enterprises, and should therefore be distinguished from other items in this list.

Amendment 11

Article 1(16)

Text proposed by the Commission	CoR amendment
<p>16. In Article 20, paragraph 2, the first sentence is replaced by the following:</p> <p>'The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least 20 minutes.;</p>	<p>In Article 20, paragraph 2, the first sentence is replaced by the following:</p> <p>'The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least 30 minutes.;</p>

Reason

With regard to the transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes, the current directive provides for the possibility of interruptions to broadcasting by television advertising and/or teleshopping once for each scheduled period of at least 30 minutes. The European Committee of the Regions proposes, however, that the former limit of 30 minutes not be reduced, given that this interruption largely prevents the full enjoyment of cinematographic works and also spoils the viewers' experience.

Amendment 12

Article 1(17)

Text proposed by the Commission	CoR amendment
	<p>17. Article 22 is replaced by the following:</p> <p style="text-align: center;">Article 22</p> <p>Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:</p> <ul style="list-style-type: none"> (a) it may not be aimed specifically at and shall avoid exposure to minors or, in particular, depict minors consuming these beverages; (b) it shall not be broadcast during, immediately preceding or immediately following a programme relating to a sport event, with effect five (5) years after the date of entry into force of the current Directive; (c) it shall not link alcohol to enhanced physical performance or to driving; (d) it shall not create the impression that alcohol contributes towards social or sexual success; (e) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts; (f) it shall not encourage alcohol or present abstinence or moderation in a negative light; (g) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

Reason

Scientific evidence shows a link between exposure to alcohol marketing and increased alcohol consumption amongst young people. Sport events need to be considered as programmes targeting children. Therefore, alcohol advertisement must be banned, taking however into consideration short and medium-term sponsorship contracts in progress.

Amendment 13

Article 1(19)

Text proposed by the Commission	CoR amendment
<p>19. the following Chapter IXa is inserted:</p> <p>‘CHAPTER IXa — PROVISION APPLICABLE TO VIDEO-SHARING PLATFORM SERVICES</p> <p style="text-align: center;">Article 28a</p> <p>(1) [...]</p> <p>7. The Commission and ERGA shall encourage video-sharing platform providers to exchange best practices on co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.</p> <p>[...]</p>	<p>19. the following Chapter IXa is inserted:</p> <p>CHAPTER IXa</p> <p>‘CHAPTER IXa — PROVISION APPLICABLE TO VIDEO-SHARING PLATFORM SERVICES</p> <p style="text-align: center;">Article 28a</p> <p>(1) [...]</p> <p>7. The Commission and ERGA shall encourage video-sharing platform providers to exchange best practices on co-regulatory systems across the Union. The Commission shall facilitate the development of Union codes of conduct, particularly by drafting and publishing models of codes.</p> <p>[...]</p>

Reason

Self-explanatory.

Amendment 14

Article 1(21)

Text proposed by the Commission	CoR amendment
<p>21. Article 30 is replaced by the following:</p> <p style="text-align: center;">‘Article 30</p> <p>(1) [...]</p> <p>6. Member States shall ensure that independent national regulatory authorities have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to carry out the task assigned to them and to actively participate in and contribute to ERGA.</p> <p>7. Member States shall ensure that effective mechanisms exist at national level under which any user or media services provider or video-sharing platform provider who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body. The appeal body shall be independent of the parties involved in the appeal.</p>	<p>21. Article 30 is replaced by the following:</p> <p style="text-align: center;">‘Article 30</p> <p>(1) [...]</p> <p>6. Member States shall ensure that independent national regulatory authorities have separate annual budgets. The budgets shall be sufficiently detailed and be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to carry out the task assigned to them and to actively participate in and contribute to ERGA.</p> <p>7. Member States shall ensure that effective mechanisms exist at national level under which any user or media services provider or video-sharing platform provider who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body. The appeal body shall be independent of the parties involved in the appeal.</p>

Text proposed by the Commission	CoR amendment
<p>That appeal body, which should be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.</p> <p>Pending the outcome of the appeal, the decision of the national regulatory authority shall stand, unless interim measures are granted in accordance with national law.;</p>	<p>That appeal body, which should be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.</p> <p>Pending the outcome of the appeal, the decision of the national regulatory authority shall stand, unless interim measures are granted in accordance with national law.</p> <p>8. Implementation of the independence of the national regulatory authorities, particularly with regard to the first sentence of paragraph 2, shall be monitored and evaluated in accordance with Article 4(1)(d) of Council Regulation (EC) No 168/2007 of 15 February 2007, by the European Union Agency for Fundamental Rights at the request of the Commission. As part of this assessment, which shall be carried out every 2 years, the operating methods and activities of national regulatory authorities shall be examined, with the cooperation of the widest possible range of stakeholders. The European Union Agency for Fundamental Rights shall set out the criteria that will form the basis of its assessment following a public consultation. The results of the assessment shall be made public.'</p>

Reason

Paragraph 6: the budgets made public must contain sufficiently comprehensive and detailed data to correctly reflect the composition of the revenue and expenditure of the independent national authority. A sufficiently detailed budget can guarantee that the independent national regulatory authority complies with transparency requirements.

New paragraph 8: the provisions under Article 30 regarding the organisation and financing of national regulatory authorities offer important guarantees of their independence. However, meeting the criteria set out in the first sentence of Article 30(2) is exclusively linked to actual activities, decisions and to the transparent functioning of regulatory authorities. In this context, it is necessary to establish an EU level monitoring system that would assess not only the operating methods of regulatory authorities and the legislative framework applicable to them, but also their activities, and would make such assessments accessible to the public. These assessments would provide objective, comparable data on the extent to which different laws in the Member States guarantee the level of independence needed to ensure media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition, as mentioned in paragraph 2.

The nature and extent of the assessments require account to be taken, when drafting them, of the knowledge, experiences and views of the widest possible range of players from government, the media, civil society and academia.

The results of this monitoring will not have direct legal consequences. However, the results of these checks could provide the Commission with information likely to reveal any gaps in the transposition of Article 30, and as such could serve as the basis for infringement procedures.

Amendment 15*Article 1(22)*

Text proposed by the Commission	CoR amendment
<p>22. the following Article 30a is inserted:</p> <p style="text-align: center;">‘Article 30a</p> <p>1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established.</p> <p>2. It shall be composed of national independent regulatory authorities in the field of audiovisual media services. They shall be represented by the heads or by nominated high level representatives of the national regulatory authority with primary responsibility for overseeing audiovisual media services, or in cases where there is no national regulatory authority, by other representatives as chosen through their procedures. A Commission representative shall participate in the group meetings.</p> <p>3. ERGA’s shall have the following tasks:</p> <p>(a) to advise and assist the Commission in its work to ensure a consistent implementation in all Member States of the regulatory framework for audiovisual media services;</p> <p>(b) to advise and assist the Commission as to any matter related to audiovisual media services within the Commission’s competence. If justified in order to advise the Commission on certain issues, the group may consult market participants, consumers and end-users in order to collect the necessary information;</p> <p>(c) to provide for an exchange of experience and good practice as to the application of the regulatory framework for audiovisual media services;</p> <p>(d) to cooperate and provide its members with the information necessary for the application of this Directive, in particular as regards Articles 3 and 4 thereof;</p> <p>(e) to give opinions, when requested by the Commission, on the issues envisaged in Articles 2(5b), 6a(3), 9(2), 9(4) and on any matter relating to audiovisual media services, in particular on the protection of minors and incitement to hatred.’;</p>	<p>22. the following Article 30a is inserted:</p> <p style="text-align: center;">‘Article 30a</p> <p>1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established.</p> <p>2. It shall be composed of national independent regulatory authorities in the field of audiovisual media services. They shall be represented by the heads or by nominated high level representatives of the national regulatory authority with primary responsibility for overseeing audiovisual media services, or in cases where there is no national regulatory authority, by other representatives as chosen through their procedures. A Commission representative shall participate in the group meetings.</p> <p>3. ERGA’s shall have the following tasks:</p> <p>(a) to advise and assist the Commission in its work to ensure a consistent implementation in all Member States of the regulatory framework for audiovisual media services;</p> <p>(b) to advise and assist the Commission as to any matter related to audiovisual media services within the Commission’s competence. If justified in order to advise the Commission on certain issues, the group may consult market participants, consumers and end-users in order to collect the necessary information;</p> <p>(c) to provide for an exchange of experience and good practice as to the application of the regulatory framework for audiovisual media services;</p> <p>(d) to cooperate and provide its members with the information necessary for the application of this Directive, in particular as regards Articles 3 and 4 thereof;</p> <p>(e) to give opinions, when requested by the Commission, on the issues envisaged in Articles 2(5b), 6a(3), 9(2), 9(4) and on any matter relating to audiovisual media services, in particular on the protection of minors and incitement to hatred;</p>

Text proposed by the Commission	CoR amendment
<p>4. The Commission shall be empowered to adopt, by means of an implementing act, the rules of procedure for ERGA.;</p>	<p><i>(f) to ensure the exchange of experiences and best practices in developing media literacy, in particular with regard to activities in the areas of support, research, awareness-raising, coordination and assessing independent national authorities, as well as forms of cooperation between national regulatory authorities, media service providers and educational establishments.</i></p> <p>4. The Commission shall be empowered to adopt, by means of an implementing act, the rules of procedure for ERGA.;</p>

Reason

Setting a goal for developing media literacy is essential to achieving the directive's regulatory objectives, namely establishing a regulation that is capable of meeting the challenges of the digital media system. The various Member States have made significant progress in developing media literacy. Sharing results effectively promotes the development of tools and methods used, as well as the development of solutions at European level.

In several Member States, the media regulatory authorities play an important role in developing media literacy. Amongst other things, they participate in research which forms the basis of this development, provide financial support for programmes aimed at improving media literacy and contribute, through information campaigns, to raising the level of media literacy. They can also play an essential role in coordinating the players and sectors involved, as well as in measuring and evaluating the results obtained. Exchanging best practices can increase the maturity and the effectiveness of the media regulatory authorities' action in the area of developing media skills.

Developing media literacy is a responsibility shared by independent national regulatory authorities, media service providers and educational establishments. The directive should promote this cooperation without overstepping its regulatory powers.

II. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

General comments

1. welcomes the review of the Audiovisual Media Services Directive and the fact that the European Commission is interested in a number of proposals included in the Committee of the Regions' opinion on this subject, adopted in 2015;
2. welcomes the amendment on derogations from the country of origin principle, which allow, in the context of clearer and simpler procedures, the interests of the destination country to be taken into account;
3. regrets, however, that the new directive does not take the regional dimension into consideration as recommended previously by the Committee of the Regions, as this would contribute towards enhancing European cultural identities, cross-border co-productions within the European Union and local creative innovation;
4. insists, moreover, on the need to involve local and regional authorities in implementing the directive, as these bodies have a very important role to play in the area of audiovisual media services. In several Member States, some local and regional bodies own media services companies, which means that they may not therefore be included within the category of micro and small enterprises;
5. reiterates that the independence of national regulatory authorities, both from public authorities, audiovisual actors and political parties, is a cornerstone of the European Audiovisual Media Regulation, which Member States are responsible for ensuring at all costs, and which is the primary guarantee of the diversity of information and a pluralistic media market at European, national, local and regional level;

6. welcomes the fact that the revised directive extends its field of application to video sharing platform services, which play an increasingly important role among audiovisual media service providers;

7. is concerned by the fact that the proposed regulation applicable to video sharing platforms does not clarify situations in which the provider has no interest in moving to European Union territory, but makes their service available to European citizens;

8. points out that currently the resale of content outside of infrastructure (over-the-top services), which represents a growing segment of the audiovisual media services market, operates in an opaque legal framework and asks the Commission to agree — in future regulations on media and communications and particularly during the revision of provisions on electronic communication — to pay particular attention to clarifying the legal situation for this practice;

9. again wishes to draw the European Commission's attention to linguistic and cultural minorities who face obstacles when they want access to audiovisual media services in their own language;

10. considers it appropriate, in the various ERGA procedures, to take account of the regional dimensions of certain regulatory issues and to reflect territorial principles;

Protecting minors

11. welcomes the fact that the revised directive bolsters and harmonises protection for minors, as it has previously recommended. Calls yet again for the introduction of further incentives to promote content specifically designed and adapted for children, and for the promotion of partnerships between audiovisual operators and the educational community in the digital environment;

Media literacy

12. recalls the importance of further promoting content relating to media literacy, particularly regarding the new media;

13. highlights the need to allocate more resources to developing media literacy to ensure that audiovisual media services offer not only a homogeneous service, but also reflect the organisation and distinctive features of the regions in economic, commercial and cultural terms;

Media freedom and pluralism

14. is concerned with the fact that the proposed regulation does not address transparency of media ownership, media concentration and conflicts of interest, all of which have a major impact upon media pluralism and media freedom;

Consumer protection

15. welcomes the fact that the amendment to the directive includes a relaxation of the rules on advertising time and, more precisely, that it extends the scope of the Regulation to non-linear audiovisual media services;

Promoting European works

16. agrees that micro and small enterprises should not be obliged to contribute financially to the production of European works; asks the Commission to note, however, that many local and regional television stations broadcasting on their website in the form of on-demand audiovisual media services do not fall within this category;

17. welcomes the fact that, in the case of on-demand services, the revised directive ensures a level playing field for European works, which must constitute at least 20 % of the catalogue offered by providers of these services;

18. stresses that, with regard to on-demand services, the 20 % minimum requirement applicable to service providers is not enough; it is also necessary to ensure that these works are easy to find and accessible to users;

Subsidiarity and proportionality

19. stresses that, while the proposal appears to comply with the subsidiarity and proportionality principles, the minimum harmonisation approach and cooperation mechanisms must be preserved and therefore, the proposed rules on national regulatory authorities must leave enough room for manoeuvre for national and sub-national decision-making;

Brussels, 7 December 2016.

*The President
of the European Committee of the Regions*
Markku MARKKULA
