Coordination of certain provisions in Member States concerning the pursuit of television broadcasting activities ('Audiovisual media services without frontiers')

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The Commission presents its ninth Communication on the application of Articles 4 and 5 of Directive 89 /552/EEC (Television Without Frontiers Directive), as amended by Directive 97/36/EC and Directive 2007 /65/EC for the period 2007-2008 (‘Audiovisual Media Services’). The Communication is based on Member States’ statistical statements on the achievement of the proportions referred to in these Articles by each of the television programmes falling within their jurisdiction and presents the Commission’s opinion on the application of these provisions, including the main conclusions to be drawn from the Member States’ reports.

The purpose of this biennial reporting exercise is twofold:

- the Communication brings the statistical statements by the Member States to the knowledge of the other Member States, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:
- it aims to verify whether the measures adopted by the Member States with a view to promoting European works and independent productions have been properly applied.

For this reporting exercise, the Commission provided all the Member States with a predefined list of channels extracted from the MAVISE data base of the European Audiovisual Observatory. The purpose was to use a uniform basis to increase the consistency and comparability of the statistical data provided by the Member States. In accordance with the provisions of the Directive, local channels were removed from the list since they are excluded from the scope of Articles 4 and 5 as well as channels which do not broadcast in an EU language and channels which broadcast exclusively for reception outside the EU and cannot be received in the EU. As had already been the case for the previous report, all channels falling within the jurisdiction of a given Member State had to be considered independently of their audience share. Additional details can be found in the background documents included in the Commission Staff Working Document accompanying this Communication (SEC(2010)0995).

For the first time, Bulgaria and Romania, which joined the EU on 1 January 2007 and provided statistical data on a voluntary basis for the 2005-2006 period, fulfilled their obligation to report on the application of Articles 4 and 5 during the 2007-2008 period. It is thus the first time that this Communication includes the compulsory reports of all 27 EU Member States.

According to the statistical data provided by the Member States, the scheduling of European works at the EU level registered a very slight increase during the current reference period. Over the period 2005-2008, development was stable, although some variations were registered between 2005 and 2007 (upward trend followed by a decrease in 2007). However, in 2008 European works scheduling was back at the same level as in 2005 (63.2 % for the EU- 27). This demonstrates stabilisation at a relatively high level, **well above the required proportion set out in Article 4**. Furthermore, this result has to be interpreted against the background of a continued increase in the number of channels on the market, with the emergence of small specialised channels which may well find it difficult to meet the required proportion of European works from the start of their operations. This aspect was already stressed in the eighth Communication

and should be taken into account when assessing overall performance with respect to the scheduling of European works in the EU over the current reference period.

Although the overall situation is satisfactory, there is still some room for progress:

- the three Member States (Cyprus, Sweden, Slovenia) which failed to attain the required proportions of European works in 2007 and 2008 should step up their efforts in order to improve their performance and strengthen the increase (in one case, very slight) already registered in 2008. Since two of these underperforming Member States belong to the EU-10, an increase in their European works averages would have a positive impact on the downward trend registered by the EU-10 between 2005 and 2008, which should also be corrected;
- it is worth drawing attention to the high level of European works scheduling achieved by the two most recent Member States during the reference period and the increase they registered over the 2005-2008 period.

With respect to the **implementation of Article 5 of the Directive**, the overall development observed during the reference period shows a slight downward trend for independent works. According to the statistical statements provided by the Member States, a decrease was registered over the current reference period as well as in the period 2005-2008. Although it is not a significant decrease (-0.83 point from 2005 to 2008), it reverses the positive trend that was registered in the previous period. As far as independent productions are concerned, it should be noted that the EU-10 improved their performance.

There is a somewhat sharper downward trend as regards recent works by independent producers over the period 2005-2008. Member States are invited to encourage the channels falling within their jurisdiction to step up their efforts in order to increase the scheduling of independent productions and recent works.

Nonetheless, the results achieved during the reference period testify to a satisfactory implementation of Article 5, with a level of achievement well above the proportions required by this provision.

As already stated in the eighth Communication, the results of the analysis of the reports submitted by the Member States show that the requirements set out in Articles 4 and 5 of the Directive have been met comfortably during the period 2007-2008.