

Implementation of the Audiovisual Media Services Directive

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PURPOSE: to present the first report from the Commission on the application of Directive 2010/13/EU "Audiovisual Media Service Directive (AMSD)" covering the period 2009-2010.

CONTENT: the report comprises two parts:

- the first part of the report looks retrospectively at the implementation of the Directive, including questions about the effectiveness of qualitative advertising rules in a sector where the offer and individuals' response to advertising are changing.
- the second part addresses, in a prospective way, the influence of important technological changes on the regulatory framework as traditional broadcasting and internet rapidly converge. By the end of 2011 notifications had been received from a total of 23 Member States, twenty of which amounted to full transpositions.

Generally, the report concludes that the **European regulatory framework for audiovisual media services has served citizens and businesses well.**

- For business, it has provided the stable legal framework, which media service providers need to make business decisions. Since its creation, the regulatory framework has allowed the market to grow from a small number of service providers to more than 7,500 broadcasters today. It has also enabled the development and growth of video-on-demand services, the estimated number of on demand services in the EU amounting to at least 650 as of January 2012. In February 2012 the number of online video-on-demand is estimated at 251 in the EU.
- From a citizen's perspective, access to channels and choice of audiovisual services has increased significantly. In 2009, television-viewing time increased in almost all Member States, with the daily average ranging from 145 minutes in Austria to 265 in Hungary.

The Commission considers, nevertheless, that **some points need attention:**

Audiovisual commercial communications: in this field, several of the issues involved should be further monitored and assessed in order to strengthen the effectiveness of the rules having regard to their objective.

- The proportion of advertising and teleshopping spots on television may not exceed 12 minutes per hour. The Commission monitored advertising practices in eight Member States during the reference period. In a number of Member States **the 12-minute limitation of advertising spots is regularly breached.** The Commission intends to continue monitoring Member States' compliance with the 12-minute rule and, if necessary, initiate infringement procedures.
- The monitoring of advertising practices also revealed a number of issues in the area of commercial communications concerning **sponsorship, self-promotion and product placement.** This shows a need to clarify the rules governing the various forms of commercial communications.

- In the Member States monitored, **alcohol advertising** represents between 0.8% and 3% of overall advertising activity on audiovisual media services based on the total number of spots broadcast over the monitored period. Very few cases of clear infringements have been found. However, a significant proportion, more than 50%, of the advertising spots contained elements which might be linked to some of the characteristics banned by the AVMSD, although they fell short of constituting a clear-cut infringement.
- With regard to **advertising targeting children**, content analysis of the 100 most frequently broadcast advertising spots showed that the Directive's provisions on the protection of minors in advertising were seldom contravened. As with alcohol advertising, because of the detailed wording of the relevant provisions, there are few infringements of the AVMSD. Nevertheless, it does appear that advertising techniques geared towards minors are frequently used in television advertising. Five Member States prohibit advertising in children's programmes. Four Member States impose a partial ban and seven Member States prohibit the showing of sponsorship logos in children's programmes.

In view of the above, the Commission will **update in 2013 the Interpretative Communication** on certain aspects of the provisions on televised advertising in the 'Television Without Frontiers' Directive. Further investigations are required to assess the impact of commercial communications, especially for alcoholic beverages, on minors as regards exposure and consumption.

In the more specific area of audiovisual commercial communications in children's programmes for **sweet, fatty or salty foods or drinks**, Member States must encourage audiovisual media service providers to develop codes of conduct regarding inappropriate audiovisual commercial communications in children's programmes. The effectiveness of such codes of conduct must be further assessed.

Technological progress: the report stresses that foreseeable technological developments might blur the boundaries between broadcasting and over the top delivery of audiovisual content. As a result, the **current regulatory framework set by the AVMSD may have to be tested against evolving viewing and delivery patterns**, taking into account related policy goals such as consumers' protection and the level of media literacy.

As the possible impact on the market and the regulatory framework is not yet totally clear, a **full assessment of the current and future situation should be made**. The Commission launched an open debate with stakeholders about "over-the-top" delivery of audiovisual content and will deepen this analysis in the coming months in view of a policy document on connected TV.