

Implementation of the Audiovisual Media Services Directive

2012/2132(INI) - 28/02/2013 - Committee report tabled for plenary, single reading

The Committee on Culture and Education adopted the initiative report by Piotr BORYS (EPP, PL) in follow-up to the Commission's first report on the Implementation of the Audiovisual Media Services Directive (AVMSD) covering the period 2009-2010.

Members remind the Commission of its commitment to the smart regulation agenda, and the **importance of making timely and pertinent *ex-post* controls of EU legislation** in order to manage the quality of regulation throughout the policy cycle and note that the Commission has submitted its application report with a significant delay.

The report notes that the Member States have implemented the AVMSD in a **particularly diverse manner** and that the 'country of origin' principle, when properly applied, gives broadcasters important clarity and certainty about their operational arrangements.

Members deplore that the Commission's application report does not assess the need for a possible adaptation of the AVMSD in view of these findings, as required by the Directive.

They strongly support a **technology-neutral approach**, in view of evolving viewing and delivery patterns, to facilitate increased consumer choice and call, in this regard, for a **full impact assessment of the current state of play on the market and of the regulatory framework**.

- **Accessibility (Article 7):** Members point out that the Commission's report neither fully addresses the issue of accessibility, nor assesses the effectiveness of the implementation of the appropriate provisions in individual Member States.

They call on the Commission to monitor the situation regarding the provision of media services to **people with disabilities and the elderly**, stressing the need for the Member States to encourage broadcasters to gain a better understanding of their needs. They point to the need for wider accessibility of programmes, in particular those rendered via on-demand services, through further developments in, inter alia, audio description, audio/spoken subtitles, sign language and menu navigation, notably of electronic programme guides (EPGs).

They believe that Article 7 of the AVMSD should be reworded in order to include stronger, binding language, requiring media service providers to ensure that their services are made available to people with disabilities.

- **Exclusive rights and short news reports (Articles 14 & 15):** Members call on the Commission, in its next report on the application of the AVMSD, to assess whether the Member States have implemented this directive in a way that preserves the necessary and existing balance between safeguarding the principle of freedom of access to information, especially on events of high interest to society, and the protection of rights holders.

Welcoming the approach taken by the Commission and the European Court of Justice in relation to the interpretation of the AVMSD, they call for a **continued broad interpretation** of the term 'events which are regarded as being of major importance for society', including sports and entertainment events that are of general interest, and encourage the Member States to draw up lists of such events.

- **Promotion of European audiovisual works (Article 13):** Members highlight that while most Member States comply with the rules relating to the promotion of European works, **priority is still given to national works**, whilst the percentage of **independent works** on TV is on the decline. They consider that the data submitted by the Commission in its report are **insufficient** for the reaching of suitable conclusions.

They call on the Member States to take effective measures to **promote better synergies** among regulatory authorities, audiovisual media services providers and the Commission, so that EU films can reach a wider audience both within and beyond the EU on linear and non-linear services. They also recommend strengthening the role of the **European Audiovisual Observatory**, which they consider would be an appropriate solution for collecting data concerning the promotion of European audiovisual works.

- **Protection of minors:** Members recognise the efforts made by the advertising industry and members of the EU Pledge, to respond to the AVMSD's call for codes of conduct for commercial communications, accompanying or included in children's programmes, of foods and beverages high in fat, sugar and salt. They stress that **co-regulatory and self-regulatory initiatives**, particularly in the field of advertising that targets minors, represent an advance on the prior situation because they offer a means of reacting more swiftly to developments in the rapidly changing world of the media. They note, however, that such initiatives may not always be sufficiently effective in all Member States and that they should be regarded as **complementary to legal provisions** in realising the aims of the AVMSD, **particularly in an online context**.

They invite the Commission to consider how the basic requirements of the AVMSD applicable to non-linear services can be **extended to other online content and services which are currently out of its scope**, and what steps need to be taken to create a level playing field for all operators and call on it to present to Parliament the results of its considerations no later than 31 December 2013.

- **Advertising (Article 9):** Members note that the 12-minute hourly advertising limit has been breached in some Member States and urge the Member States concerned to implement fully, correctly and without delay the provisions of the AVMSD in this respect.

They also urge the Commission, while monitoring compliance with existing rules setting out qualitative and quantitative stipulations on advertising, to have an eye towards **future challenges**, e.g. that of Connected TV, in terms of the competitiveness and the sustainable financing of audiovisual media services.

Members welcome the Commission's intention to update its **interpretative communication** on certain aspects of the provisions on televised advertising in 2013.

- **Media literacy:** Members take note of the findings by the Commission with regard to the level of media literacy in the Member States. They note that access to channels, and the choice of audiovisual services, has increased significantly and call on the Commission and the Member States to **promote media literacy for all EU citizens through initiatives and coordinated actions**, in order to increase the critical understanding of audiovisual media services.

- **Future challenges:** Members regret that the Commission only partially carried out its reporting task in keeping with its obligation under the AVMSD, and call for an **interim evaluation** before the next Commission application report.

They call on the Commission to monitor closely **the development of hybrid services** in the EU, in particular Connected TV, to establish in its Green Paper on Connected TV the various issues they raise and to pursue those issues through public consultation.

Lastly, Members also call on the Commission to address, in particular, the **uncertainties surrounding the use of the term ‘on-demand audiovisual media services’** and, with an eye both to greater consistency in EU legislation affecting on-demand audiovisual services and to likely developments in media convergence, to **establish a clearer definition** of the term so that the regulatory aims of the AVMSD can be achieved more effectively.