

Implementation of the Audiovisual Media Services Directive

2012/2132(INI) - 22/05/2013 - Text adopted by Parliament, single reading

The European Parliament adopted by 593 votes to 69, with 14 abstentions, a resolution on the Implementation of the Audiovisual Media Services Directive (AVMSD) covering the period 2009-2010.

Parliament reminds 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 notes that the Commission has submitted its application report with a significant delay.

The resolution 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. It calls on the Commission to encourage the consistent and full implementation of the AVMSD in the Member States and to ensure that all due account is taken of the specific definitions contained in the recitals to this Directive when it is transposed into national law. It deplores the fact 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.

Parliament strongly supports a **technology-neutral approach**, in view of evolving viewing and delivery patterns, to facilitate increased consumer choice and calls, 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):** Parliament points 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.

It calls 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. It points 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). It therefore believes 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):** Parliament calls 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 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, it calls 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 encourages the Member States to draw up lists of such events.

- **Promotion of European audiovisual works (Article 13):** Parliament highlights 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. It considers that the data submitted by the Commission in its report are **insufficient** for the reaching of suitable conclusions.

It calls 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. It also recommends strengthening the role of the **European Audiovisual Observatory**, which it considers would be an appropriate solution for collecting data concerning the promotion of European audiovisual works.

- **Protection of minors:** Parliament recognises 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. It stresses that co-regulatory and self-regulatory initiatives, particularly in the field of advertising that targets minors, represent an advance on the prior situation. It notes, 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**.

Parliament invites 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. It calls on the Commission to present to Parliament the results of its considerations no later than 31 December 2013.

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

It also urges 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. It highlights, in particular, the need to monitor commercial formats devised to circumvent this restriction, especially surreptitious advertising, which can confuse consumers.

Parliament calls on the Commission (i) to submit, as soon as possible, the clarifications needed of the issues it has identified in the field of commercial communications concerning **sponsorship, self-promotion and product placement** and (ii) to analyse the effectiveness of the regulations in place and to monitor compliance with the **rules on advertising aimed at children and minors**.

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

- **Media literacy:** Parliament takes note of the findings by the Commission with regard to the level of media literacy in the Member States and that access to channels, and the choice of audiovisual services, has increased significantly. It stresses that, in order to achieve a true digital single market in Europe, further efforts are therefore needed in the field of improving media literacy among citizens and calls on the Commission and the Member States to promote media literacy for all EU citizens through initiatives and coordinated actions.

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

It calls 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, Parliament calls on the Commission to address, in particular, the **uncertainties surrounding the use of the term ‘on-demand audiovisual media services’** and to establish a clearer definition of the term so that the regulatory aims of the AVMSD can be achieved more effectively.