Audiovisual media services: changing market realities

2016/0151(COD) - 28/11/2018 - Final act

PURPOSE: to amend 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.

LEGISLATIVE ACT: Directive (EU) 2018/1808 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 (Audiovisual Media Services Directive) in view of changing market realities.

CONTENT: this Directive amends Directive 2010/13/EU in order to take into account changes in the audiovisual landscape and in particular the convergence between television and Internet services.

Fair conditions for all operators

The updated legislation shall apply to all broadcasters, but also to video-on-demand and online video-sharing platforms and social media services if the provision of user-generated programmes and videos is an essential feature. This shall ensure a level playing field between the conventional broadcasting sector and new services.

The Directive ensures flexibility as Member States are able to adapt the rules to national conditions and even adopt stricter ones if they so wish.

Increased protection of consumers, in particular minors

The protection of minors and all users from violent or harmful content and hate speech will be improved by establishing clear accountability for video sharing platforms. The most harmful content, such as pornography and gratuitous violence, shall be subject to the strictest measures such as encryption and the use of effective parental control.

Media service providers shall provide sufficient information on content likely to harm the physical, mental or moral development of minors. This information may be provided, for example, by means of a system of content descriptors, an acoustic warning, a visual symbol or any other means, describing the nature of the content.

Video-sharing platforms shall provide transparent and user-friendly mechanisms for platform users to report harmful content.

The amending Directive imposes measures to ensure that personal data of minors collected by audiovisual media providers are not used for commercial purposes, in particular for direct marketing, profiling and behavioural advertising.

In addition, services provided by media service providers under their jurisdiction shall be continuously and progressively made more accessible to people with disabilities.

Member States will be able to take action through their national audiovisual regulatory authorities against operators who do not comply with the rules.

Freedom of expression, media pluralism, cultural diversity

Any measures taken by Member States pursuant to the Directive must respect freedom of expression and information, media pluralism and cultural and linguistic diversity.

Member States shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30 % share of European works in their catalogues and ensure prominence of those works.

In order to contribute to the development of European audiovisual productions, Member States may require financial participation from on-demand television and media service providers, in particular those established in another Member State. Exceptions are provided to make it easier for start-ups and small businesses.

In order to strengthen freedom of expression, and, by extension, to promote media pluralism and avoid conflicts of interest, it is important for Member States to ensure that users have easy and direct access at any time to information about media service providers.

Advertising

Under the new rules, the transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising, teleshopping, or both, once for each scheduled period of at least 30 minutes.

The transmission of teleshopping (product placement) shall be prohibited during children´s programmes.

Advertising must represent a maximum of 20% of the air time between 6 a.m. and 6 p.m. During the period between 18 and 24 hours, advertising may not exceed 20% of the air time.

Advertising shall not (i) use subliminal techniques, (ii) violate human dignity, (iii) discriminate on grounds of sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation, or (iv) encourage behaviour prejudicial to health or safety.

Under no circumstances shall programmes include product placement of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.

ENTRY INTO FORCE: 18.12.2018.

TRANSPOSITION: from 19.9.2019.