Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 30/06/1997 - Final act

OBJECTIVE: to amend Directive 89/552/EEC, known as "Television without frontiers", in order to update and improve its functioning so that a stable legal framework will be in place for promoting the development of the audiovisual sector within the European Union.

COMMUNITY MEASURE: European Parliament and Council Directive 97/36/EC amending Directive 89 /552/EEC which seeks to coordinate certain legislative, regulatory and administrative measures within the Member States relating to the exercise of television broadcasting activities.

CONTENT: the main provisions of the new directive are as follows:

- Principles of jurisdiction: the directive defines precisely which Member State has competence with regard to television channels; this is determined principally on the basis of the effective head office and the place where editorial decisions on programming are taken. The clause on derogations from the principle of freedom of reception is amended. In addition, a clause has been introduced to define the television broadcasting organisation;
- Freedom of reception and retransmission: as a general rule, Member States ensure freedom of transmission and do not impede retransmission within their territory of television programmes emanating from other Member States for reasons which come within the areas coordinated by the directive;
- Better access to the courts: it is proposed that appropriate procedures be set in place by the Member States to allow those third parties directly concerned, including nationals from other Member States, to have recourse to the competent authorities, legal or otherwise, to ensure that the provisions of the directive are respected;
- Retransmission of major events (mainly sporting events): the Directive lays down the conditions under which the public may be guaranteed free access to the broadcasting of such events. The Member States may each draw up a list of events (national or other) which are to be broadcast in uncoded form only, even if the exclusive rights have been bought by pay-TV channels; on the basis of the principle of mutual recognition, they shall ensure that the different channels respect each of these lists;
- Measures for the promotion of European programmes: the system for promoting the broadcasting of European productions, which was put in place in 1989, is confirmed (television channels will reserve a majority share of their transmission time for European productions, when this is feasible); a degree of flexibility is always allowed for the implementation of this measure. The definition of European productions is extended to include co-productions with certain non-member countries;
- European productions: productions which are not of European origin but which are produced within the framework of bilateral co-production agreements between Member States and non-member countries, are to be regarded as European productions if the Community co-producers are making the majority contribution to the total cost of production and if the production is not controlled by one or more producers who are based outside the territory of the Member States;
- Independent productions: the Member States shall introduce a definition of "independent producer" in order to facilitate the implementation of the ruling which involves reserving 10% of the broadcasting time, or alternatively 10% of the programming budget, to independent productions;
- Televised broadcasting of films: the minimum periods set for the televised broadcasting of cinemagraphic productions are annulled; Member States must simply ensure that the periods agreed between television broadcasters and legal claimants are respected;
- Television advertising: the limit of 20% of the transmission time each hour is adjusted. Self-promotion is included under advertising and is subject to most of the provision of the directive. Public service

announcements and charity appeals are not included in the maximum transmission time for advertising; - Teleshopping: a definition of teleshopping is introduced and the latter is subject practically to the same rules as advertising. Teleshopping windows on non-specialised channels are to last for at least 15 minutes and shall be clearly identifiable. Their number shall not exceed 8 windows per day and their total duration may not exceed 3 hours per day. Teleshopping must not encourage minors to enter into contracts for the sale of goods or services;
- Sponsorship: pharmaceutical companies may in future sponsor programmes but may still not promote specific medicinal products or medical treatments;
- Protection of minors and public order: programmes likely to prove detrimental to the development of minors are prohibited. Those which may simply prove harmful to minors must be preceded by an acoustic warning or be clearly identified, throughout their duration, by a visual symbol. Programmes must not contain incitement to hatred on grounds of race, sex, religion or nationality. The Commission is to submit, within a period of one year, an in-depth study of "v-chip" (anti-violence chip) filtering systems which are designed to facilitate parental controls on programmes which their children are able to see (the directive does not prejudge the conclusions of this study);
- Follow-up dialogue: a contact committee is set up to examine the implementation of the directive and the developments in this sector, in order that an exchange of views can take place.

DATE OF ENTRY INTO FORCE: 30/07/1997

DEADLINE FOR TRANSPOSITION: 30/12/1998.