Coordination of certain provisions in Member States concerning the pursuit of television broadcasting activities ('Audiovisual media services without frontiers')

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The committee adopted the report by Ruth HIERONYMI (EPP-ED, DE) amending - under the 1st reading of the codecision procedure - the proposed directive amending the 1989 "Television Without Frontiers" Directive. Although MEPs in the committee broadly welcomed the proposal as a good basis for the revision of the TVWF Directive, they felt that a number of points required further clarification. The key amendments were as follows:

- **scope:** in order to distinguish an 'audiovisual media service' more clearly from other audiovisual services, it should be specified that the offer of moving images consists of "programmes" for which the media service provider bears editorial responsibility. For the purposes of clarification, the amendments also reiterated that the printed and electronic press are not covered by the scope of the directive, nor is the mere transmission of content for which the editorial responsibility lies with a third party. In view of the importance of the term 'editorial responsibility' for the scope of the directive, a definition was introduced. The committee also modified the concepts of 'linear audiovisual media service' and 'non-linear service' so as to clarify that the term 'television broadcast(ing)' means a simultaneous offer of programmes to an unlimited number of viewers in accordance with a fixed programme schedule, while a non-linear service is an 'on-demand' media service "consisting of an offer of audiovisual content....where the user, on an individual basis, requests the delivery of a particular programme from among a selection of content and at the time of his choice";

- **protection of minors**: a number of amendments introduced new provisions aimed at promoting filtering systems for and assessing content (i.e. pornography, gratuitous violence, etc.) that is damaging to the physical, mental or moral development of minors;

- **product placement:** whereas the proposal dealt with sponsoring (in which the separation between content and advertising is maintained) and product placement together in a single article, MEPs in the committee wanted a distinction to be drawn between these two advertising instruments and therefore proposed that they be dealt with in separate articles. The committee said that product placement should be prohibited except in a limited range of programmes, and then only under strict rules. It would be banned in "news and current affairs programmes, children's programmes, documentaries and programmes of advice." Member States could still permit it "in cinematographic works, films and series made for television and sports broadcasts", as well as in "cases of production aid where no payment is made but certain goods or services are merely provided free of charge with a view to their inclusion in a programme." Even where they are allowed, however, programmes that feature product placement should never affect "the responsibility and editorial independence" of the broadcaster; nor should they "directly encourage the purchase or rental of goods or services" or give "undue prominence to the product in question"; lastly, viewers should be clearly notified of the existence of product placement in such programmes. MEPs also agreed with the Commission that product placement containing tobacco products or cigarettes (or producers whose principal activity is the manufacture or sale of cigarettes and other tobacco products) should be completely banned;

- **advertising:** advertising breaks in "films made for television (...), cinematographic works, concerts, theatre plays and operas" should be limited to every 45 minutes rather than every 35 minutes as proposed by the Commission. MEPs also introduced a new provision stipulating that children's programmes and news programmes could be interrupted for advertising every 30 minutes - provided that such programmes exceed 30 minutes to begin with. As a way of avoiding subliminal advertising techniques, the sound volume of adverts should not exceed the average volume for the rest of the programme service. Commercials should not be offensive on grounds of discrimination by race, gender, nationality, disability, age or sexual orientation - nor should they "offend against human dignity." Pornography, "including depictions likely to incite hatred on grounds of sex", should be added to the list of banned audiovisual commercial communications. Lastly, in view of the worrying increase in child obesity in Europe, the committee introduced a new provision stipulating that audiovisual media services directed at children should not contain adverts for food or drink, "in accordance with the principles laid down in the Health Claims Regulation";

- **transposition deadline**: whereas the Commission had omitted to specify any deadline, the committee wanted to see the directive implemented as soon as possible and therefore proposed a deadline of two years. It also wanted the Commission to report to Parliament and the Council on the application of the directive no later than five years after its adoption.