## Basic information

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|---|---|
| **1995/0074(COD)**<br><br>COD - Ordinary legislative procedure (ex-codecision procedure)<br>Regulation | Procedure completed |
| Television broadcasting activities. 'Television without frontiers'<br><br>**Subject**<br><br>3.30.01 Audiovisual industry and services<br>3.30.02 Television, cable, digital, mobile<br>3.30.04 Radiocommunications, broadcasting | |

## Key players

### European Parliament

| Former committee for opinion | Former rapporteur for opinion | Appointed |
|---|---|---|
| ECON Economic and Monetary Affairs, Industrial Policy | CAUDRON Gérard (PSE) | 19/07/1995 |
| RELA External Economic Relations | MALERBA Franco E. (UPE) | 20/07/1995 |
| JURI Legal Affairs, Citizens' Rights | BARZANTI Roberto (PSE) | 02/02/1995 |
| ENVI Environment, Public Health and Consumer Protection | WHITEHEAD Phillip (PSE) | 26/07/1995 |

### Council of the European Union

| Council configuration | Meetings | Date |
|---|---|---|
| Economic and Financial Affairs ECOFIN | 1942 | 1996-07-08 |
| Transport, Telecommunications and Energy | 1979 | 1996-12-13 |
| Environment | 2017 | 1997-06-19 |
| Culture | 2427 | 2002-05-23 |
| Culture | 1936 | 1996-06-11 |
| Culture | 1860 | 1995-06-21 |
| Culture | 1981 | 1996-12-16 |
| Culture | 1884 | 1995-11-20 |
| Culture | 1841 | 1995-04-03 |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|

| | | | |
|---|---|---|---|
| 31/05/1995 | Legislative proposal published | COM(1995)0086 | Summary |
| 21/06/1995 | Debate in Council | | |
| 10/07/1995 | Committee referral announced in Parliament, 1st reading | | |
| 16/01/1996 | Vote in committee, 1st reading | | Summary |
| 16/01/1996 | Committee report tabled for plenary, 1st reading | A4-0018/1996 | |
| 14/02/1996 | Debate in Parliament | | Summary |
| 07/05/1996 | Modified legislative proposal published | COM(1996)0200 | Summary |
| 08/07/1996 | Council position published | 08262/1/1996 | Summary |
| 18/07/1996 | Committee referral announced in Parliament, 2nd reading | | |
| 29/10/1996 | Vote in committee, 2nd reading | | Summary |
| 29/10/1996 | Committee recommendation tabled for plenary, 2nd reading | A4-0346/1996 | |
| 12/11/1996 | Debate in Parliament | | Summary |
| 13/12/1996 | Parliament's amendments rejected by Council | | |
| 16/12/1996 | Debate in Council | | |
| 16/04/1997 | Formal meeting of Conciliation Committee | | Summary |
| 16/04/1997 | Final decision by Conciliation Committee | | |
| 14/05/1997 | Joint text approved by Conciliation Committee co-chairs | 3611/1997 | |
| 29/05/1997 | Report tabled for plenary, 3rd reading | A4-0201/1997 | |
| 09/06/1997 | Debate in Parliament | | Summary |
| 19/06/1997 | Decision by Council, 3rd reading | | |
| 30/06/1997 | Final act signed | | |
| 30/06/1997 | End of procedure in Parliament | | |
| 30/07/1997 | Final act published in Official Journal | | |

## Technical information

| | |
|---|---|
| **Procedure reference** | 1995/0074(COD) |
| **Procedure type** | COD - Ordinary legislative procedure (ex-codecision procedure) |
| **Procedure subtype** | Legislation |
| **Legislative instrument** | Regulation |
| **Legal basis** | EC Treaty (before Amsterdam) E 066<br>EC Treaty (before Amsterdam) E 057-p2 |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | CODE/4/08525 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|
| Committee report tabled for plenary, 1st reading/single reading | | A4-0018/1996<br>OJ C 047 19.02.1996, p. 0005 | 16/01/1996 | |
| Text adopted by Parliament, 1st reading/single reading | | T4-0054/1996<br>OJ C 065 04.03.1996, p. 0061-0096 | 14/02/1996 | Summary |
| Committee recommendation tabled for plenary, 2nd reading | | A4-0346/1996<br>OJ C 362 02.12.1996, p. 0006 | 29/10/1996 | |
| Text adopted by Parliament, 2nd reading | | T4-0579/1996<br>OJ C 362 02.12.1996, p. 0021-0056 | 12/11/1996 | Summary |
| Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading | | A4-0201/1997<br>OJ C 200 30.06.1997, p. 0004 | 29/05/1997 | |
| Text adopted by Parliament, 3rd reading | | T4-0280/1997<br>OJ C 200 30.06.1997, p. 0017-0025 | 10/06/1997 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Council position | 08262/1/1996<br>OJ C 264 11.09.1996, p. 0052 | 08/07/1996 | Summary |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(1995)0086<br>OJ C 185 19.07.1995, p. 0004 | 31/05/1995 | Summary |
| Modified legislative proposal | COM(1996)0200<br><br>OJ C 221 30.07.1996, p. 0010 | 07/05/1996 | Summary |
| Commission communication on Council's position | SEC(1996)1292<br> | 15/07/1996 | Summary |
| Commission opinion on Parliament's position at 2nd reading | COM(1996)0626<br> | 04/12/1996 | Summary |
| Non-legislative basic document | COM(2001)0009<br> | 15/01/2001 | |
| Follow-up document | COM(2002)0612<br> | 08/11/2002 | Summary |
| Non-legislative basic document | COM(2002)0778<br> | 06/01/2003 | Summary |
| Non-legislative basic document | COM(2004)0524<br> | 28/07/2004 | Summary |
| Follow-up document | COM(2006)0049<br> | 10/02/2006 | Summary |
| Follow-up document | COM(2006)0459<br> | 14/08/2006 | Summary |

| | | | |
|---|---|---|---|
| Document attached to the procedure | SEC(2006)1073 | 14/08/2006 | |
| Follow-up document | COM(2007)0452 | 24/10/2007 | Summary |
| Follow-up document | COM(2008)0481 | 22/07/2008 | Summary |
| Follow-up document | SEC(2008)2310 | 22/07/2008 | Summary |
| Follow-up document | COM(2009)0309 | 26/06/2009 | Summary |
| Follow-up document | COM(2010)0450 | 23/09/2010 | Summary |
| Follow-up document | SEC(2010)0995 | 23/09/2010 | Summary |

**Other institutions and bodies**

| Institution/body | Document type | Reference | Date | Summary |
|---|---|---|---|---|
| EESC | Economic and Social Committee: opinion, report | CES0972/1995<br>OJ C 301 13.11.1995, p. 0035 | 13/09/1995 | Summary |
| CSL/EP | Joint text approved by Conciliation Committee co-chairs | 3611/1997 | 14/05/1997 | |

**Additional information**

| Source | Document | Date |
|---|---|---|
| European Commission | EUR-Lex | |

**Final act**

Directive 1997/0036
OJ L 202 30.07.1997, p. 0060 Summary

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 11/06/1996

On the basis of compromise suggestions from the presidency, the Council reached full political agreement on the common position by qualified majority. The Belgian, Greek and Irish delegations announced that they would abstain from the vote, while the Swedish delegation would vote against the proposal. The common position was to contain most of Parliament's amendments that the Commission had retained in its modified proposal, together with several amendments that had not been accepted by the Commission.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 31/05/1995 - Legislative proposal

OBJECTIVE: to amend the 1989 "Television without frontiers" Directive with a view to establishing a clearer, more definite and more effective legal basis to promote the development of television broadcasting activities within the single market. COMMUNITY MEASURE: proposal for a European Parliament and Council directive amending Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities. SUBSTANCE: the European Commission proposes making distribution quotas more restrictive. The quotas would be maintained for ten years and would no longer apply at the end of that period. As an alternative to the quotas, special-interest channels would have the opportunity of investing 25% of their programming budget in European works. Furthermore, the Commission proposes amendments aimed at: - clarifying that the broadcaster should respect the laws in the Member State in which he is established; - strengthening the rules governing the protection of minors with respect to programmes containing scenes involving pornography or violence; - establishing minimum rules for the cross-border development of teleshopping services: no time limit would be set for channels exclusively devoted to this activity, whilst teleshopping windows within other services could last between one and three hours a day; - extending the opportunities for broadcasters to include advertising during their programmes: provision is made for more flexible rules with regard to advertising breaks (particularly during television films) and sponsorship; - clarifying the procedure concerning the minimum time-scale between the first showing of a work in the cinema and its first broadcast on television; - ensuring that all parties who consider themselves to be wronged as a result of a violation of the provisions of the directive could assert their rights before the competent judicial authorities of the Member State in which the broadcaster is established.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 08/11/2002 - Follow-up document

This Communication consists of the fifth report from the European Commission on the implementation of Articles 4 and 5 of the "Television without Frontiers" Directive to promote the broadcasting of European works, including those of independent producers. The first general conclusion concerns trends in the number of television channels in Europe: the total number of channels10 of all types in Europe (the European Union Member States and the EFTA Member States participating in the European Economic Area) was around 550 in January 1999 and 670 in January 2000. The total number of channels as at January 2001 was around 820. The number of channels concerned by Articles 4 and 5 of the "Television without Frontiers" Directive continued to increase overall compared with the previous period (1997-1998) and within the reference period of this report (1999-2000), reflecting the dynamism in European audiovisual supply. This increase was considerable in most European Union countries, and particularly so in countries such as Spain, France, Italy, Sweden and the United Kingdom. The second conclusion concerns the average transmission time reserved for European works by the channels with the highest viewing figures: - the average transmission time of European works for all European channels, in all Member States, was 60.68% in 1999 and 62.18% in 2000, representing a 1.50 point increase over the reference period; - depending on the Member State in question, the average transmission time varied between 52.94% and 71.46%15 in 1999 and between 55.33% and 71.18% in 200016, with the exception of Portugal17 (48.7% in 1999 and 49.5% in 2000) and Luxembourg (100% in 1999 and 2000); - the trend in the broadcasting of European works, in terms of number of channels, was upward in 12 Member States. It was stable in one Member State and (very slightly) downward in the other two. The third conclusion refers to the total number of channels which achieved or exceeded the majority proportion of their transmission time of European works over the reference period: - the average compliance rate for all European channels in all Member States was 68.58% in 1999 and 72.50% in 2000, representing a 3.93 point increase over the reference period. This is a particularly impressive figure given the considerable increase in the number of channels, essentially special-interest channels, over the same period; - the compliance rates for all types of channel varied, according to the Member State under consideration, between 55% and 100% in 1999 and between 53% and 100% in 2000, with the exception of Italy which did not meet the majority proportion of transmission time (42% in 1999 and 49% in 2000); - the average compliance rate, in terms of number of channels of all types, rose in nine Member States, was stable in four and fell in two. The overall trend was therefore positive. The fourth conclusion concerns the general trend, in terms of number of channels of all types, in the scheduling of European works over the reference period, the report shows that the national reports revealed an upward trend in 14 Member States, the level in the fifteenth remaining stable. To resume, for the reference period 1999-2000, the national reports reflect generally satisfactory application by the European Union Member States of the provisions of Article 4 (European works) and Article 5 (European works created by independent producers) of the "Television without Frontiers" Directive. Detailed examination of these reports by the Commission reveals, for both Articles 4 and 5, a positive and dynamic trend in the broadcasting of European works, including those by independent producers, in the context of a general increase in the number of channels over the reference period. Only some of the minority channels in certain Member States are presenting difficulties. In this regard, the Commission would remind the Member States concerned of the need for increased control and monitoring of these channels and the importance of ensuring, where practicable and by appropriate means, that these television broadcasters meet the proportions laid down by Articles 4 and 5 of the Directive.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 24/10/2007 - Follow-up document

This report is the sixth annual report from the Commission on the application of Directive 89/552/EEC “Television without frontiers” between 2005 and 2006.

The main objective of the report is to describe and analyse the salient facts relating to the application of the Directive during the reference period. Given that the Commission has adopted a proposal for the modernisation of the Directive, this report also refers to recent developments concerning this legislative proposal.

In recent years, the television market has faced important technological and economic challenges. The broadcasting sector has improved its overall economic performance in terms of turnover (the total net revenues of radio/TV companies in 2004 stood at around EUR 72.8 billion – an increase of 7.9% compared to 2003). However, this trend has not prevented a concentration of operators in specific areas, such as Pay-TV, where business conditions have in many cases not allowed the simultaneous presence of several operators on individual national markets. The development of digital television broadcasting and IPTV has introduced a further element of change to the broadcasting industry.

The report finds that the Directive continues to function effectively as a means of ensuring the freedom to provide television services in the EU. The Commission, acting as guardian to the Treaty, continues to verify the effective implementation of the Directive and takes action where necessary to ensure it. The seventh report on the applications of Article 4 and 5 of the Directive indicate general satisfaction of the results in terms of channels meeting the requirements for European works.

At the same time, the technological and market developments have opened the way to the development of new audiovisual services such as on-demand services. This confirms the need to modernise the EU legal framework. This will be done once the amending Directive on audiovisual media services has been finally adopted.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 22/07/2008 - Follow-up document

This paper contains background documents dealing with the following: performance indicators; charts and tables on the application of Articles 4 and 5; the application of Articles 4 and 5 in each Member State; summary of the reports from the Member States and voluntary reports by Bulgaria and Romania; reports from the Member States of the European Free Trade Association participating in the European Economic Area; average transmission time of European works by channels with an audience share above 3%; list of television channels in the Member States which failed to achieve the majority proportion required by Article 4; and the list of television channels in the Member States which failed to achieve the minimum proportion required by Article 5.

With regard to **monitoring**, the Commission notes that, although further efforts seem to be needed in some of the Member States, monitoring practice improved in general, including the monitoring of commercial channels and, in particular, satellite channels. The increased number of monitored channels reflects an ever-growing number of private broadcasters entering the market.

The dynamic development of the sector is further mirrored in the Member States' reports. For the first time, channels broadcasting in Digital Video Broadcasting-Handheld (DVB-H) are listed in a Member State's report. Italy's statistical statement featured four such channels. Some Member States have also included on-demand channels in their reports. Belgium included the channel 'SiA a la demande', while citing the reservations expressed by the channel as to the possibility of applying Articles 4 and 5 to its format.

On the question of **cases of non-compliance with** the required proportions, in most cases, the Member States chose to hold talks with the channels/broadcasters concerned. In some cases, broadcasters were given a formal notice or subjected to specific monitoring. Only a minority of Member States explicitly mentioned that their legislation provides for administrative or penalty procedures. As in the previous report, only a few cases were mentioned where measures had already been taken at the time of reporting. In this regard, the Commission would like to insist on the need for Member States to improve their enforcement measures against channels in breach of the Directive, in order to ensure that the proportions of transmission time laid down in Articles 4 and 5 are achieved. Especially in cases where channels continuously fail to meet the proportions - and the number of such channels is significant - only stricter enforcement of the rules can ensure the effective implementation of Articles 4 and 5 at Member State level.

The Commission stresses that this is the first report containing statistical statements for the entire reference period from the 10 Member States that joined the EU in 2004. In general, with an increasing number of covered (and reported) channels, in both the EU-15 and the EU-25 as a whole,the national reports indicate satisfactory application of the provisions of Article 4, although there remains ample room for improvement. 15 of the EU-25 Member States increased their average majority proportion during the reference period. In the EU-15, 8 Member States were able to increase their percentages from 2005 to 2006. Nonetheless, over a medium-term perspective, looking at the previous reference period and the subsequent development, the majority of Member States have not seen any increase in the figures regarding the 50% proportion European works. Correspondingly, only 12 Member States increased their average majority proportion either during the years 2003-2006 or from the beginning of reporting in 2004.This negative impression is slightly mitigated when taking into account that 9 Member States saw only a decrease of 5% or less over 4 years.

**As regards Article 5** (European works made by independent producers), 15 of the EU-25 Member States increased their average proportions for independent productions during the reference period. Over four years,the percentages fell in only 7 Member States, whereas the 18 other Member States saw often quite substantial increases. It may also be noted that 18 Member States were able to stabilise their performance regarding independent works at well above 25% of total qualifying transmission time. Despite the fact that a number of channels faced significant losses and given that Article 5 stipulates a minimum proportion of only 10%, this is a significant development, showing the positive effects of the progressive achievement approach.

# 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.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 20/11/1995

Pending the European Parliament’s opinion, the Council reached political agreement on revising Directive 89/552/EEC (Television without Frontiers Directive) and more specifically on the main provisions concerning the obligation to broadcast European works. The Commission supported this agreement. The Council noted that there was a consensus on many of the other proposed amendments to the present Directive; however, some articles still have to be examined in greater detail. It therefore instructed the Permanent Representatives Committee to finalise the text once the European Parliament’s opinion had been received. The Council’s aim is to reach full agreement on the common position before the end of the year, provided that the European Parliament delivers its opinion at its December part-session. The Council’s discussions mainly concerned the following points: - the obligation for television channels, whenever possible, to see that a majority of their broadcasts consist of European works. On this point, the abovementioned political agreement advocates maintaining present arrangements (Articles 4 and 5 of the 1989 Directive), including a five-year review clause; - the setting-up of a Contact Committee to provide a forum for consultation between the Member States and the Commission on application of the Directive and the development of rules in the field of television broadcasting; - the jurisdiction of Member States regarding television broadcasters (Article 2 of the Directive). The state having jurisdiction would be mainly determined on the basis of the actual head office and the place where management decisions on programming are taken. Other criteria would be used where necessary to ensure that the state having jurisdiction can be determined in every case; - freedom of reception. The conditions for any restrictive measures that might be taken by Member States would be laid down. The Television without Frontiers Directive aims to coordinate the relevant provisions of the Member States in order to ensure free movement of television broadcasts. By means of the Directive and the introduction of common rules in areas where these have become indispensable, compliance by a television broadcaster established in a Member State with the law applicable in that state will be enough to ensure that its broadcasts can be received and retransmitted freely throughout the Union . The areas coordinated to that end go well beyond the simple promotion of programmes and the other aspects referred to above, also covering matters such as television advertising, teleshopping and sponsorship, the protection of minors and the right of reply.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 12/11/1996 - Text adopted by Parliament, 2nd reading

In adopting the recommendation for second reading by Mr GALEOTE QUECEDO (PPE, E) and Mr HOPPENSTEDT (PPE, D) on the revision of the 1989 'Television without frontiers' directive, the European Parliament has finally allied itself very comprehensively with the Council's position. For want of a large enough majority, Parliament was unable to follow its Committee on Culture in changing certain significant aspects of the text regarding the directive's scope, the compulsory application of quotas, counting studio broadcasts in quotas, rules on relocations, the time given to advertising, the application of more stringent rules with regard to realizing language policy objectives, taking account of the general interest, safeguarding pluralism of information and the media, protection of competition. The amendments aimed at extending the directive's field of application to the 'new services', i.e. television 'on demand', were also rejected. On the other hand, Parliament: - referred expressly to the possibility of financial penalties for Member States which do not comply with the directive; - called for access for everyone to broadcasts of events of particular importance and general interest, including sporting events; - strengthened the provisions relating to protection of minors, stressing: (a) the need to avoid inclusion of advertisements or trailers likely to do them serious psychological damage; (b) the requirement to equip all television sets with a programme filtering device within a time limit of one year.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 10/06/1997 - Text adopted by Parliament, 3rd reading

By adopting the report by Mr GALEOTE QUECEDO (PPE, E) and Mr HOPPENSTEDT (PPE, D), the European Parliament approved the joint text adopted by the European Parliament/Council conciliation committee on the revision of the 1989 directive, known as 'television without frontiers'. Although the quota principle has not been changed, the new text aims to take account of market developments, including those due to technological advances. The directive's scope, however, remains the same (it applies to 'point to multipoint' broadcasting systems). The conciliation committee reached a compromise on three points considered to be matters of priority by the European Parliament at the second reading: unencoded access to events of major importance, the V-chip and the definition of independent producers. - on the question of broadcasting major events, the principle of mutual recognition was adopted. Each Member States will draw up in good time a list of national or other events. It will also establish whether these events should be broadcast live, wholly or in part, or whether, if necessary, for objectives reasons of general interest, they should be recorded, wholly or in part. The Member States must forward the list they have drawn up to the Commission, which will check that the measures are compatible with Community law and notify the other Member States of them. The measures will be published in the Official Journal. The directive also sets out certain criteria to be taken into account in judging whether an event is of major importance to society. - on the question of the V-chip, it is provided that the Commission will carry out within a year, in liaison with the relevant authorities in the Member States, an inquiry into the advantages and disadvantages of measures designed to facilitate parental control. This study will examine inter alia the installation of filtering systems, encouragement of family viewing policies and education and awareness-raising measures; - as regards the definition of independent producers, the directive provides that the Member States shall take account of criteria such as the ownership of the production company, the number of programmes supplied to the same broadcasting body, and the holding of secondary rights. The other aspects of the compromise relate to the following points: - broadcasting in languages other than those of the Member States: the provisions relating to quotas and to independent producers do not apply to channels which broadcast in such languages or to the parts of programmes which deal with them; - pluralism and competition in the audiovisual sector: the Member States must avoid establishing or reinforcing dominant positions by mergers, agreements or acquisitions; - support for European production: the directive recalls that the Commission proposed that the making of European productions should also be encouraged by means of a Community mechanism such as a guarantee fund. This objective can also be achieved in the Member States, which can, in organizing their broadcasting services, give some broadcasting bodies a general-interest remit, including a requirement that they invest extensively in European productions; - the tasks of the contact committee: the directive provides for a contact committee to be set up within the Commission for the purpose of facilitating the implementation of the directive. It will be able to give opinions, on its own initiative or at the request of the Commission, on the application of the directive by the Member States.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 06/01/2003

Article 26 of the Directive provides that, not later than 31 December 2000, and every two years thereafter, the Commission must submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of the Directive as amended and, where appropriate, make further proposals to adapt it to developments in the field of television broadcasting, in particular in the light of recent technological developments. This report follows the Third Report that was published at the end of the year 2000 and deals with the application of the Directive in the years 2001 and 2002. The report describes and analyses the salient facts relating to the application of the Directive during the reference period. These cover, in particular, the application of Article 3a on events of major importance for society, the application of the rules on protection of minors and of the rules on advertising, coordination between the national authorities and the Commission and an analysis of audiovisual legislation in the applicant countries wishing to join the European Union. In an overall assessment it can be concluded that the Directive continues to function successfully as a means of ensuring the freedom to provide television services in the Community. The overriding objectives of public interest that the Directive aims to safeguard are still valid and more than ever before Member States have given themselves the means to achieve these objectives. Independent national regulatory authorities have been set up and most Member States have allocated additional staff and resources to effectively implement the Directive. The "Television without Frontiers" Directive provides effective regulation for the European audiovisual sector and the report confirms the validity of the common European approach to audiovisual matters. The separate report on the application of Articles 4 and 5 of the Directive indicates generally satisfactory results in terms of channels meeting the requirements concerning European works and independent production. Article 26 of the Directive provides that the Commission shall submit not only the report on the application of the Directive, but also make further proposals to adapt the Directive, if necessary, to developments in the field of broadcasting. In an annex to the report the Commission proposes a work programme to open a debate on the possible need to adjust the regulatory framework because of the developments in markets and technologies. This debate will be forum-driven and concentrate on a number of horizontal and specific questions. The purpose of this exercise is to provide the Commission with the necessary input to evaluate the need to update or adapt the present regulations. Depending on the results of this consultative process, the Commission will

assess the need to propose more coherent measures to reinforce European audiovisual policy to the Community legislator, taking also full account of the objective of creating a pro-competitive and growth oriented environment for the development of the audiovisual sector.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 22/07/2008 - Follow-up document

This Communication is drawn up pursuant to Article 4(3) of Council Directive 89/552/EEC, as amended (Television without Frontiers Directive). The Commission reports, for the eighth time since the adoption of the Directive, on the application of Articles 4 and 5, now for the period 2005-2006. The report is based on the Member States' statistical statements on the achievement of the proportions referred to in these Articles by each of the television programmes falling within their jurisdiction and it presents the Commission's opinion on the application of these provisions, including the main conclusions to be drawn from the Member States' reports.

For the first time, the statistical statements of the ten Member States that joined the EU on 1 May 2004 are presented and assessed for the entire reference period of the report (2005-2006). Furthermore, it should be noted that Articles 4 and 5 (in particular the former) are being successfully applied in a changing audiovisual environment: for the first time, channels broadcasting in Digital Video Broadcasting-Handheld (DVB-H) are listed in a Member State's report.

The Commission looks at Articles 4 and 5 in the context of the European audiovisual landscape and examines their application in Member States. According to the statistical statements provided by the Member States, the scheduling of European works at Community level increased over the current reference period, following a decline during the last reference period. The trend over four years has been relatively stable, while over six years (2001-2006) there has been a slight decrease. Overall, however, the proportion of European works broadcast on EU screens has stabilised at a relatively high level of above 63%. However, there are four factors that hinder a fully consistent evaluation. First, starting from the last report, figures now include the statistical statements of the ten Member States that joined the EU in 2004. Second, the method of calculation has been altered, in as much as figures for channels with an audience share of less than 3% have been included in the averages since the last report. Third, the growing fragmentation of the sector produces economic pressure and a need for cheap and easily accessible content, thereby creating a more difficult environment for investment in and scheduling of European works. Lastly, the number of channels for which no data were communicated has fallen.

This notwithstanding, the stabilising trend in terms of the scheduling of European works is undeniable and is further confirmed by the positive trend in the average compliance rate of the channels covered. This rose by more than 4% during the reference period, and also developed positively over the four-year term (2003-2006). In conclusion, the overall situation is satisfactory for the transmission of European works on EU television channels, although there is still scope for progress in certain Member States. The scheduling of European works at European level has stabilised well above 60%, and a proportion above 65% or more is sustainable in future. This positive assessment applies equally to the 10 new Member States which actually performed better than the 'old' Member States in the reference period - showing that their initial efforts to comply with Article 4 have been successful.

With respect to the implementation of Article 5 of the Directive, a positive trend can also be observed: after a considerable decline of -6.25% during the period 2001-2004, the 2006 rate stabilised at a level comparable with that recorded in 2001 (37.59% compared with 37.75%). This means that the average proportion increased quite substantially by 6.2% over four years, despite the impact of the factors described above. It is remarkable that the vast majority of the Member States were able to stabilise their performance as regards independent productions at a level well above 25% of total qualifying transmission time.

The situation concerning recent works by independent producers is also very satisfactory: despite a slight decrease over the reference period and over four years, the figures improved over six years. During the reference period, more than 25% of total qualifying transmission time was devoted to recent works.

These results, based on a detailed analysis of the Member States' national reports, demonstrate that the objectives of Articles 4 and 5 of the Directive have been met comfortably over the current reference period at both Community and Member State levels.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 14/08/2006 - Follow-up document

The report comprises of the Commission's seventh communication on the application of Articles 4 and 5 of Directive 89/552/EEC "Television without Frontiers", as amended by Directive 97/36/EC, for the period 2003-2004.

The purpose of this bi-annual reporting exercise is, firstly, to bring Member States' statistical statements to the attention of the other Member States, the European Parliament and the Council and, secondly, to check that the measures to promote European and independent production are being properly applied in the Member States. For the first time, the ten Member States which joined the European Union on 1 May 2004 are included in this report.

Reported data indicate that, for the first time, there has been a slight decrease in the scheduling of European works (Article 4) at Community level during the current reference period. However, the medium-term (1999-2004) trend is positive. Two factors have to be taken into account when evaluating progress under Article 4. First, the figures for 2004 include the ten Member States which joined the EU in 2004. Second, the method of calculation has been altered inasmuch as secondary channels with audience shares below 3% are now also included in the average proportions of European works.

These results show that, notwithstanding the slightly downward short-term trend, scheduling of European works has stabilised in the EU at a level well above 60% of total qualifying transmission time. Particularly for the ten Member States which participated in this monitoring exercise for the first time this is an encouraging development. Thus, overall the application of Article 4 of the Directive at European level has been satisfactory.

As regards the application of Article 5, the slight increase during the present reference period (+ 0.11% percentage points) can be seen as a positive development, bearing in mind that the data for 2004 include the ten Member States joining the EU in 2004. However, from a midterm perspective, this short-term upward trend is offset by a serious drop of more than 6 percentage points (or a decrease of more than 16%) compared with the averages for 1999 or 2001.

However, this downward mid-term trend is offset to some extent by three factors:

1) the EU-average compliance rate has risen within the present reporting period, meaning that in 2004 substantially more channels in the EU complied with the minimum proportion set in Article 5 than in 2003;

2) levels of transmission of recent European works by independent producers were relatively high.In relation to independent productions, recent works have risen by 30% in six years;

3) proportions have remained at levels well above the 10% minimum set by the Directive.

Overall, the application of Article 5 has been generally satisfactory.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 08/07/1996 - Council position

The common position of the Council, in incorporating the great majority of Parliament's amendments accepted by the Commission in its amended proposal but also certain amendments not accepted by the Commission, involves some significant changes compared with the original proposal, namely: - increased precision in the definition of the terms 'television broadcasting organization', 'television advertising', and 'teleshopping'; - clarification and a greater element of legal certainty in the criteria for determining the jurisdiction of Member States in respect of the television channels. The competent Member State would be determined principally on the basis of the effective head office, the place where editorial decisions are taken, or where the workforce involved in the television broadcasting activity in a Member State operates; - the rights of third parties (whether nationals or non-nationals) to apply to the competent national authorities to seek effective compliance with the provisions of the Directive; - adjustment of the definition of a European work so as to provide greater encouragement for co-productions with European third countries; - updating of media time-scales: general 18-month period between the first showing of a cinemagraphic work in the cinema and its broadcast on television, reduced to 12 months for pay-television and pay-per-view channels; - a legal framework applicable to teleshopping programmes and channels, namely, . alignment in part on the content and presentation rules applicable to advertising: identification, respect for human dignity, consumer protection, alcohol, tobacco, etc.; . specific rules concerning certain products or publics (prohibition of teleshopping for medicinal products; increased protection for minors), presentation of teleshopping windows (minimum period of 15 minutes with a maximum number of 8 windows per day) and teleshopping channels; - similar rules are introduced for channels exclusively devoted to self-promotion; - public service announcements and charity appeals broadcast free of charge are not to be included in the maximum daily transmission time for advertising; - means of protecting minors from programmes which might be harmful to them (acoustic or optical warning) have been strengthened, and the Commission is instructed to carry out an investigation into further ways of protecting minors, in particular by technological means such as an anti-violence chip, with a view to a forthcoming revision of such rules; - arrangements for exercising the right of reply have been improved by ensuring reasonable time limits for broadcasting of the reply; - a contact Committee is set up to be the forum of an exchange of views between Member States and the Commission, on the implementation of the Directive and the development of regulatory activities regarding television broadcasting services. As regards the promotion of European works, the common position departs from the Commission proposal and Parliament's opinion by retaining the current system (Directive 89/552/EEC), including a clause providing for a review after five years. Similarly, the Council was unable to accept Parliament's amendments concerning, in particular: - extension of the scope of the Directive to include certain new audiovisual services such as video-on-demand; - reference to an instrument to guarantee funds for audiovisual production; - compliance by advertising and teleshopping programmes and spots with provisions of Council directives on distance contracts and misleading advertising; - the need for a public service; - the idea that advertising and teleshopping should not offend philosophical convictions; - tightening of provisions to prevent any incitement to hatred on grounds of race, sex, religion or nationality.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 04/12/1996 - Commission opinion on Parliament's position at 2nd reading

The Commission amended its proposal in the light of the amendments by the European Parliament at second reading. The new amended proposal based on the common position (accepted by the Commission) incorporates the amendments adopted by Parliament and approved by the Commission.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 23/05/2002

The Council held a debate on Directive 89/552/EEC on television broadcasting ("Television without Frontiers" Directive, as amended by Directive 97/36 /EC) which will undergo revision by the end of this year. The President concluded with the hope that delegations' comments would be taken into account by the Commission in its subsequent discussions and that the Council would come back to this dossier at one of its forthcoming meetings. The

debate focused on the experience gained in the implementation of the Directive, the main challenges for national and European audiovisual law and developments in national legislation concerning this sector. The Commission indicated that, in the course of its assessment of the Directive, most of the interested parties which it had consulted had said that, of the possible options, they would prefer to establish a work programme with a view to amending the Directive at a later stage. This approach received wide support from the delegations.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 23/09/2010

This Staff working document supplements the Commission's Communication on the application of Articles 4 and 5 of Directive 97/36/EC, pursuant to Article 4(3). The ninth Communication, covering the years 2007 and 2008, outlines the Commission's opinion on application of Articles 4 and 5 at Community level and the principal conclusions which can be drawn from the Member States' reports. This document contains a detailed analysis of application of Articles 4 and 5 in each Member State based on the reporting obligations for the reference period.

The Commission is responsible for ensuring correct application of Articles 4 and 5 of the Directive in accordance with the Treaty. Article 4(3) of the Directive requires the Member States to provide the Commission with a report on application of Articles 4 and 5 every two years. Summaries of these reports are provided in Annex 3. This document comprises two parts: general remarks on the application of Articles 4 and 5; and detailed analysis for each Member State on the application of those provisions.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 03/04/1995

The Council heard a presentation by the Commission of its proposal for an amendment of Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative provision in the Member States concerning the pursuit of television broadcasting activities (Television without Frontiers Directive), which has just been adopted by the Commission following the conclusions of the Essen European Council. After a preliminary exchange of views between Ministers, the Council agreed that the Permanent Representatives Committee would begin examination of this proposal and would press ahead with it so that the Council could hold a discussion in June 1995, when it would establish its views in anticipation of a later decision. According to the British, most delegations, and especially the German, Danish, Swedish, Dutch and British delegations, were in favour of abolishing distribution quotas, either by eliminating them gradually or by maintaining the flexibility provided for in the current Directive. Only the Greek, Irish and Belgian delegations would have supported the Commission's proposals regarding quotas, while the French Presidency would have preferred not to discuss it in detail.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 15/07/1996 - Commission communication on Council's position

The Commission noted that the Member States and the Commission had demonstrated flexibility in reaching a common position which represented a compromise between highly divergent starting positions, especially with regard to the question of the promotion of European productions. On this point, the Commission preferred its initial proposal, which was closer to Parliament's opinion at first reading that the common position. However, a compromise was needed in order to allow the decision-making process to continue and the necessary amendments to be made to other provisions of the text relating in particular to: advertising, sponsorship and teleshopping, the protection of minors and the right of reply. On these points, the Commission considered that the result incorporated a significant number of improvements over the 1989 text and that these improvements took account of Parliament's concerns.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 26/06/2009 - Follow-up document

This report is the Seventh Annual Report from the Commission on the application of Directive 89/552/EEC "Television without frontiers" between 2007 and 2008.

The main objective of this report is to describe and analyse the salient facts relating to the application of the TWFD during the reference period. On 11 December 2007, the Council and Parliament adopted Directive 2007/65/EC, to be transposed not later than 19 December 2009. This Directive, which entered into force on 19 December 2007, substantially amended the TWFD and re-named it "Audiovisual Media Services Directive" (AVMSD) (see COD/2005/0260). The new provisions of the Directive will also be referred to.

**Recent technological developments and development of the television market in Europe**: Pay-TV operators have generally reaped significant rewards for their activity while traditional free-to-air and public service broadcasters have suffered from stagnating or declining revenues. From a statistical perspective, the most recent data from 2006show net revenues of EU broadcasting companies at almost €79 billion (public service 39%, free-to-air commercial 28%, pay-TV 22%, thematic and teleshopping 11%). By November 2008, more than 4 000 broadcast services were established in the Member States6. In addition to 352 analogue and digital terrestrial national channels, some 1 742 channels were available over one or more platforms and at least 650 channels targeted the market of a Member State other than the country of establishment or countries outside the Union. In addition to the channels available nationally or originated in other Member States, it is estimated that more than 1 500 regional channels are available. Moreover, the European public can access more than 750 channels originating from third countries and delivered in at least one Member State.

By December 2008, more than 600 on-demand services were provided by audiovisual media services providers established in the European Union. Most of the non-linear services are provided via Internet or as IPTV services. Audiences have further fragmented as viewers have to a certain extent switched to new channels and on-demand services. However, viewers have not substantially modified their overall viewing patterns over the period under review. In certain countries viewing time increased in 2008 compared with 2006 (*e.g.* UK, Spain, Romania) while in others it declined (*e.g.* Czech Republic, Germany, Belgium, Netherlands). Hungary remains the country where daily viewing is longest (260 min/day), while Austria and Sweden are the Member States where viewers spend the least time watching TV per day (148 and 160 min/day, respectively).

**New rules introduced by Directive 2007/65/EC**: the new AVMSD provides the necessary level of harmonisation of rules to achieve internal market objectives by providing the legal framework for free circulation of audiovisual media services on the basis of the country of origin principle. Other new rules include those relating to safeguard measures in non-linear services, circumvention procedures in linear and non-linear services, advertising, short reporting, protection of minors and public order.

**Enlargement – prospects**: Croatia, Turkey and the Former Yugoslav Republic of Macedonia are candidate countries for membership of the European Union. After the alignment of Croatian legislation with the TWFD, the Council of the European Union provisionally closed Chapter 10 of the accession negotiations on information society and media on 18 December 2008. The Council decided to open the same chapter in the accession negotiations with Turkey on the same date on the basis of the compromise alignment of Turkish audiovisual legislation with European audiovisual legislation. As regards the countries of the Stabilisation and Association process (Albania, Bosnia and Herzegovina, Montenegro and Serbia as well as Kosovo under UN Security Council Resolution 1244/99), the Commission is pursuing a strategy for the convergence of their audiovisual policies with European media standards, in cooperation with the Council of Europe. The Commission monitors the process, paying particular attention to the development of administrative and judicial capabilities.

**Future reports**: Article 26 of the re-named AVMSD stipulates that no later than 19 December 2011, and every three years thereafter, the Commission must submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of audiovisual media services, in particular in the light of recent technological developments, the competitiveness of the sector and levels of media literacy in all Member States. The report should also assess the issue of

television advertising accompanying or included in children's programmes, and in particular whether the quantitative and qualitative rules contained in the Directive have afforded the level of protection required. Therefore, the Member States will have to report to the Commission regarding these various issues. Furthermore, the accessibility of audiovisual media services to people with a visual or hearing

disability and the co- and self-regulatory regimes should also be referred to.

**Conclusion**: the Commission concludes that this report demonstrates that the Television without Frontiers Directive continues to function as an effective tool to ensure the free circulation of broadcasting services whilst guaranteeing an appropriate level of consumer protection and promotion of European works. The infringement procedures in connection with application of the advertising rules demonstrate the need for close monitoring. However, as stated in the previous report, the legal framework needed to be revised in order to address technological evolution and changes in the market. The adoption of Directive 2007/65/CE, amending substantially the TWFD and modifying its title, responds to these various issues. The adequacy of this new instrument will continue to be monitored and will be addressed by the Commission in coming reports.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 28/07/2004

This report constitutes the Sixth Communication from the Commission on the application of Articles 4 and 5 of Directive 89/552/EEC "Television without Frontiers", as amended by Directive 97/36/EC, for the period 2001-2002. It sets out the Commission's opinion on the statistical statements submitted by the Member States on the achievement of the proportions referred to under Articles 4 and 5 for each of the television programmes falling within their jurisdiction.

The reporting period (2001-2002) concerns the EU-15. The ten new Member States, which joined the EU on 1 May 2004, are not covered by this document. However, they will be included for the first time in the next application report for the monitoring period 2003-2004.

The document includes two parts:

-Part I – Commission opinion on the application of Articles 4 and 5;

-Part II – Conclusions drawn from the above opinion and the Member States' reports.

The figures on the average transmission time for the EU-15 indicate that, for the first time, there has been no progress at Community level in the scheduling of European works (Article 4). However, notwithstanding a slight decrease (-0.85 points) over the present reference period (2001-2002), there was a more apparent increase of 5.42 points over four years (1999-2002) which demonstrates a stabilisation in the scheduling of European works at almost 2/3 of total qualifying transmission time. Consequently, from a mid-term

perspective there has been an overall satisfactory application of Article 4 of the "Television without Frontiers" Directive.

As regards the application of Article 5, the trend is less positive. For the first time, there was a decrease both within the present reference period (-3.70 points) and also compared with the previous reference period (-3.46 points). However, the EU-average transmissions of European works by independent producers were constantly at levels which are well above the minimum proportion of 10% set by the Directive. In addition, there were relatively high levels of transmissions of recent European works by independent producers. In relation to European works by independent producers overall (recent or not), recent works were even increasing. In this perspective, the positive development over the reference period continued the

positive trend of the previous reference period (1999-2001). The overall assessment is therefore that the objectives of the Article 5 of the "Television without Frontiers" Directive have broadly been met. The application of Article 5 in respect to the scheduling of recent European works made by independent producers was generally satisfactory.

Detailed examination of the Member States' reports reveals, in a context of a general increase in the number of channels, stability in the broadcasting of European works, including those – to a lesser extent – by independent producers, particularly in the case of recent works.

This generally positive situation must, however, be qualified given that certain Member States did not communicate data on a considerable number of channels which are covered by Articles 4 and 5.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 10/02/2006 - Follow-up document

This report is the fifth report from the Commission on the application of Directive 89/552/EEC “Television without Frontiers”.

The present Report follows the Fourth Report, adopted in January 2003, and deals with the application of the Directive in the years 2003 and 2004. In an annex to the Fourth Report, the Commission proposed a work programme to open a debate on the possible need to adjust the EU regulatory framework in this field because of the developments in markets and technologies. Accordingly, the Commission launched consultations in 2003 for a review of the Directive. The present Report has to be seen in the context of this debate.

During the years up to 2004, the favourable trend in the development of the EU audiovisual industry reached a high degree of maturity. At the same time, some business models had to face hard tests and in some areas operators underwent a process of consolidation. New business opportunities, notably “Digital Terrestrial Television”, and the delivery of audiovisual services through new technological platforms have expanded the presence of such services on the market reinforcing the well-known phenomenon of fragmentation of supply. This trend seems to be stabilising against the background of a softening in advertising resources and little prospect of an increase in public funding.

As regards enlargement, the new Member States, which joined the EU on 1 May 2004, were required to notify their legislation transposing the Directive. An assessment carried out shows that they have complied with their obligations in this respect. The EU is now preparing for the next enlargement. Bulgaria and Romania are expected to join the European Union in 2007. Croatia and Turkey are candidate countries. As regards the Western Balkan countries, the European Council has underlined their prospects of EU membership on several occasions. The Commission pursues a strategy for the convergence of the audiovisual policies of these countries with European media standards, in cooperation with the Council of Europe.

The report concludes by stating that the “Television without Frontiers” Directive continues to function successfully in ensuring the freedom to provide television services in the European Union. The fundamental objectives of public interest that the Directive aims to safeguard in establishing a minimum harmonisation in the internal market remain valid. The Directive provides effective regulation for the European audiovisual sector and the Report confirms the validity of the common European approach to audiovisual matters.

However, in view of market and technological developments, a need to review the current EU regulatory framework, as outlined above, has become apparent. Therefore, the Commission intends to come up with a proposal for revision of the Directive at the end of 2005.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 07/05/1996 - Modified legislative proposal

The amended Commission proposal incorporates, in full or in part, 25 amendments adopted by Parliament at first reading, but none of the most controversial ones. In particular, the Commission did not take up Parliament's proposal aimed at reinforcing broadcasting quotas and imposing quantitative restrictions on advertising. Neither did it take up the idea of the "violence-chip" which can filter out programmes which are harmful to children, although it agreed to certain programmes being preceded by warnings and accompanied by visual symbols. As proposed by Parliament, the Commission introduced a definition of a "television broadcast", i.e. a sequence, animated or otherwise, of images accompanied by sound or otherwise. It is specified that this must not in any circumstances be interpreted as extending the scope of the directive to cover new services such as video on demand and on-line services such as the Internet. It is also stipulated that the legislative framework relating to the new audiovisual services must be compatible with the directive's main objective - to create a legal framework for the free movement of services. Other noteworthy amendments incorporated in the amended proposal include: - rules governing the competence of Member States as regards TV channels; - the rights of third parties (national or non-national) to refer to the relevant national authorities in order to obtain actual compliance with the directive; - tele-shopping programmes and channels: partial alignment with the rules on content and presentation governing advertising; specific rules relating to certain products and audiences (prohibition of tele-shopping for medicinal products; increased protection for minors); - the idea that advertising and tele-shopping should not offend against philosophical convictions.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 13/09/1995 - Economic and Social Committee: opinion, report

The ESC welcomed the Commission’s concern to submit a draft Directive aimed at harmonising and coordinating certain legal and administrative provisions in the Member States relating to the pursuit of television broadcasting activities. It wondered, however, whether the new quota measures were appropriate. It would like to see a more flexible and progressive system dovetailing with the gradual impact of the Media II programme. It therefore proposed that the Directive leave it up to the broadcasting organisations to choose between meeting either broadcasting or investment

quotas, irrespective of whether they were a general or special interest channel. The ESC also proposed that these quotas - of whichever type - be progressive and that intermediary stages be fixed after which the effectiveness of the measures would be assessed before moving on to the next stage. For instance, the objective would have to be met after two or three two-year stages. The ESC stressed that the proposed measures should help to upgrade the quality of European audiovisual production. Having stressed the need to take account of economic and cultural realities and to introduce a progressive system for achieving the targets for the proportion of European works, the ESC wondered whether consideration might not be given to financial assistance measures through a fund, possibly as part of the European Investment Fund. It also emphasised the importance of preparing a stable and clear regulatory framework in preparation for the Information Society. This comment applied equally to regulation of media concentration. In this connection, the ESC was awaiting the forthcoming Green Papers on new services and reserved the right to take up the matter again then.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 14/02/1996 - Text adopted by Parliament, 1st reading/single reading

By 292 votes to 195 and 25 abstentions, the European Parliament adopted the report by Mr Gerardo GALEOTE QUECEDO (PPE, Es) and Mr Karsten HOPPENSTEDT (PPE, D) on a limited amendment of the 'Television without frontiers Directive. The EP proposed, in particular, the following amendments: - Field of application: the scope of the directive should be enlarged to include the new services on individual demand. - Responsibility of Member States: the EP has specified the criteria for jurisdiction. It has also introduced derogations from the obligation for Member States to ensure freedom of reception if a television broadcast seriously infringes the provisions on advertising, teleshopping, the protection of minors and public morality. Also introduced is the possibility of rapid judicial remedy and financial penalties in the event of non-compliance with the rules guaranteeing pluralism; - Binding transmission quotas: the general-interest channels should have an obligation to devote the majority proportion of their transmission time to the showing of European works. The Member States should ensure the implementation of quotas 'by appropriate and legally effective means' and no longer merely 'where practicable'. They should also encourage the showing of non-national European works. Calculation of transmission time reserved for European works should exclude studio-bound programmes. The special-interest channels, for their part, should reserve 25% of their programming budget or 5% of their turnover to European works. Furthermore, broadcasters should reserve, at their discretion, 10% of their transmission time to works created by independent producers; - Clarity and principles for advertising, spots and teleshopping: advertising, spots and teleshopping windows should be readily recognizable and kept quite separate from other parts of the programme service by optical and/or acoustic means. Advertising and teleshopping may not be offensive to religious, philosophical or political beliefs. The EP calls for not more than one interruption for advertising, for each complete period of 45 minutes, during the showing of feature films. The amount of advertising inserted during a feature film should not exceed 15% of the film's duration. The combined amount of advertising should not exceed 15% of the daily transmission time, or 20% including teleshopping. Derogations should be limited to local and regional channels. Protection of minors and public morality: the EP proposes (a) an obligation on general-interest channels to set aside a time slot for children's programmes, within which any programme which might be detrimental would be prohibited; (b) an obligation to give an advance warning by acoustic means, and to provide a visual symbol of programmes containing scenes which might be detrimental; (c) the setting up of bodies consisting of experts (educationalists and media specialists) to monitor and classify the content of programmes before transmission; (d) that television receivers must be equipped with a filtering device limiting access by minors to programmes which might be detrimental. - Updating of the directive: the EP proposes a new general revision ten years after the entry into force of the revised directive.

# Television broadcasting activities. 'Television without frontiers'

1995/0074(COD) - 23/09/2010

The Commission presents its ninth Communication on the application of Articles 4 and 5 of Directive 89/552/EEC (Television Without Frontiers Directive), as amended by Directive 97/36/EC and Directive 2007/65/EC for the period 2007-2008 (‘Audiovisual Media Services’). The Communication is based on Member States’ statistical statements on the achievement of the proportions referred to in these Articles by each of the television programmes falling within their jurisdiction and presents the Commission’s opinion on the application of these provisions, including the main conclusions to be drawn from the Member States’ reports.

The purpose of this biennial reporting exercise is twofold:

- the Communication brings the statistical statements by the Member States to the knowledge of the other Member States, the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions:
- it aims to verify whether the measures adopted by the Member States with a view to promoting European works and independent productions have been properly applied.

For this reporting exercise, the Commission provided all the Member States with a predefined list of channels extracted from the MAVISE data baseof the European Audiovisual Observatory. The purpose was to use a uniform basis to increase the consistency and comparability of the statistical data provided by the Member States. In accordance with the provisions of the Directive, local channels were removed from the list since they are excluded from the scope of Articles 4 and 5 as well as channels which do not broadcast in an EU language and channels which broadcast exclusively for reception outside the EU and cannot be received in the EU. As had already been the case for the previous report, all channels falling within the jurisdiction of a given Member State had to be considered independently of their audience share. Additional details can be found in the background documents included in the Commission Staff Working Document accompanying this Communication (SEC(2010)0995).

For the first time, Bulgaria and Romania, which joined the EU on 1 January 2007 and provided statistical data on a voluntary basis for the 2005-2006 period, fulfilled their obligation to report on the application of Articles 4 and 5 during the 2007-2008 period. It is thus the first time that this Communication includes the compulsory reports of all 27 EU Member States.

According to the statistical data provided by the Member States, the scheduling of European works at the EU level registered a very slight increase during the current reference period. Over the period 2005-2008, development was stable, although some variations were registered between 2005 and 2007 (upward trend followed by a decrease in 2007). However, in 2008 European works scheduling was back at the same level as in 2005 (63.2 % for the EU- 27). This demonstrates stabilisation at a relatively high level, **well above the required proportion set out in Article 4**. Furthermore, this result has to be interpreted against the background of a continued increase in the number of channels on the market, with the emergence of small specialised channels which may well find it difficult to meet the required proportion of European works from the start of their operations. This aspect was already stressed in the eighth Communication and should be taken into account when assessing overall performance with respect to the scheduling of European works in the EU over the current reference period.

Although the overall situation is satisfactory, there is still some room for progress:

- the three Member States (Cyprus, Sweden, Slovenia) which failed to attain the required proportions of European works in 2007 and 2008 should step up their efforts in order to improve their performance and strengthen the increase (in one case, very slight) already registered in 2008. Since two of these underperforming Member States belong to the EU-10, an increase in their European works averages would have a positive impact on the downward trend registered by the EU-10 between 2005 and 2008, which should also be corrected;
- it is worth drawing attention to the high level of European works scheduling achieved by the two most recent Member States during the reference period and the increase they registered over the 2005-2008 period.

With respect to the **implementation of Article 5 of the Directive**, the overall development observed during the reference period shows a slight downward trend for independent works. According to the statistical statements provided by the Member States, a decrease was registered over the current reference period as well as in the period 2005-2008. Although it is not a significant decrease (-0.83 point from 2005 to 2008), it reverses the positive trend that was registered in the previous period. As far as independent productions are concerned, it should be noted that the EU-10 improved their performance.

There is a somewhat sharper downward trend as regards recent works by independent producers over the period 2005-2008. Member States are invited to encourage the channels falling within their jurisdiction to step up their efforts in order to increase the scheduling of independent productions and recent works.

Nonetheless, the results achieved during the reference period testify to a satisfactory implementation of Article 5, with a level of achievement well above the proportions required by this provision.

As already stated in the eighth Communication, the results of the analysis of the reports submitted by the Member States33 show that the requirements set out in Articles 4 and 5 of the Directive have been met comfortably during the period 2007-2008.