Basic information

2016/0151(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Audiovisual media services: changing market realities Amending Directive 2010/13/EU 2009/0056(COD) **Subject** 3.30.01 Audiovisual industry and services 3.30.02 Television, cable, digital, mobile 3.30.06 Information and communication technologies, digital technologies 3.30.08 Press, media freedom and pluralism 3.30.25 International information networks and society, internet 4.45.06 Heritage and culture protection, movement of works of art 4.60.02 Consumer information, advertising, labelling	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CULT Culture and Education	VERHEYEN Sabine (PPE) KAMMEREVERT Petra (S&D)	09/06/2016 09/06/2016
	Shadow rapporteur DZHAMBAZKI Angel (ECR) TOOM Jana (ALDE) MALTESE Curzio (GUE/NGL) TRÜPEL Helga (Verts/ALE) ADINOLFI Isabella (EFDD) BILDE Dominique (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	DORFMANN Herbert (PPE)	14/07/2016

ITRE	Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO	Internal Market and Consumer Protection	MCCLARKIN Emma (ECR)	17/06/2016
JURI	Legal Affairs	BUDA Daniel (PPE)	13/09/2016
LIBE	Civil Liberties, Justice and Home Affairs	MLINAR Angelika (ALDE)	05/09/2016
FEMM	Women's Rights and Gender Equality	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3646	2018-11-06
Education, Youth, Culture and Sport	3471	2016-05-30
Education, Youth, Culture and Sport	3502	2016-11-21

European Commission

Commission DG	Commissioner
Communications Networks, Content and Technology	ANSIP Andrus

Key events

Date	Event	Reference	Summary
25/05/2016	Legislative proposal published	COM(2016)0287	Summary
30/05/2016	Debate in Council		
09/06/2016	Committee referral announced in Parliament, 1st reading		
21/11/2016	Debate in Council		
25/04/2017	Vote in committee, 1st reading		
25/04/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
10/05/2017	Committee report tabled for plenary, 1st reading	A8-0192/2017	Summary
15/05/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
18/05/2017	Results of vote in Parliament		
18/05/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72 - vote)		
	Approval in committee of the text agreed at 1st reading interinstitutional	GEDA/A/(2018)005158	

11/07/2018	negotiations	PE625.433	
02/10/2018	Decision by Parliament, 1st reading	T8-0364/2018	Summary
02/10/2018	Results of vote in Parliament		
06/11/2018	Act adopted by Council after Parliament's 1st reading		
14/11/2018	Final act signed		
14/11/2018	End of procedure in Parliament		
28/11/2018	Final act published in Official Journal		

Technical information

Procedure reference	2016/0151(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2010/13/EU 2009/0056(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 062 Treaty on the Functioning of the European Union TFEU 153-p1
Stage reached in procedure	Procedure completed
Committee dossier	CULT/8/06764

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE587.655	15/09/2016	
Amendments tabled in committee		PE589.372	27/10/2016	
Amendments tabled in committee		PE592.326	27/10/2016	
Amendments tabled in committee		PE592.349	27/10/2016	
Amendments tabled in committee		PE592.350	27/10/2016	
Committee opinion	IMCO	PE589.291	19/12/2016	
Committee opinion	JURI	PE589.491	16/01/2017	
Committee opinion	ENVI	PE592.287	01/02/2017	
Committee opinion	LIBE	PE593.952	03/02/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0192/2017	10/05/2017	Summary
Text agreed during interinstitutional negotiations		PE625.433	13/06/2018	
Text adopted by Parliament, 1st reading/single reading		T8-0364/2018	02/10/2018	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2018)005158	13/06/2018	
Draft final act	00033/2018/LEX	14/11/2018	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0287	25/05/2016	Summary
Document attached to the procedure	SWD(2016)0168	26/05/2016	
Document attached to the procedure	SWD(2016)0169	26/05/2016	
Document attached to the procedure	SWD(2016)0170	26/05/2016	
Document attached to the procedure	SWD(2016)0171	26/05/2016	
Commission response to text adopted in plenary	SP(2018)755	21/11/2018	
Follow-up document	SWD(2024)0004	05/01/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2016)0287	26/07/2016	
Contribution	BG_PARLIAMENT	COM(2016)0287	29/08/2016	
Contribution	IT_SENATE	COM(2016)0287	29/08/2016	
Contribution	DE_BUNDESRAT	COM(2016)0287	04/10/2016	
Contribution	FR_SENATE	COM(2016)0287	30/11/2016	
Contribution	CZ_SENATE	COM(2016)0287	19/12/2016	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES3427/2016	19/10/2016	
CofR	Committee of the Regions: opinion	CDR4093/2016	07/12/2016	

Additional information

Source	Document	Date

European Parliament	Briefing	
European Commission	EUR-Lex	

Final act	
Directive 2018/1808 OJ L 303 28.11.2018, p. 0069	Summary

Audiovisual media services: changing market realities

2016/0151(COD) - 02/10/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 452 votes to 132, with 65 abstentions, a legislative resolution on the proposal for a directive 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 in view of changing market realities

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Purpose and scope: the purpose of this proposal is to amend Directive 2010/13/EU in order to take into account changes in the audiovisual landscape, in particular the convergence between television and Internet services. 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.

Protection of minors: video-sharing platform services provide audiovisual content that is increasingly consulted by the general public, especially young people. The protection of minors and all users from harmful content as well as speech inciting **hatred, violence and terrorism** shall be improved by establishing a **clear responsibility for video-sharing platforms**. The most harmful content, such as pornography and gratuitous violence, shall be subject to the most stringent measures.

Video-sharing platforms shall provide: (i) transparent and user-friendly mechanisms for platform users to **report harmful content**; (ii) systems for platform providers to explain to users what effect has been taken on the reports; (iii) transparent and user-friendly procedures for handling and resolving user complaints; and (iv) effective media literacy measures and tools.

The amended text imposes measures to ensure that **personal data of minors** collected by audiovisual media providers are not used for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising.

Member States shall be able to take action through their national audiovisual regulatory authorities against operators who do not comply with the rules. The revised Directive shall improve cooperation between Member States' audiovisual authorities by strengthening the European Regulators Group for Audiovisual Media Services (ERGA) and defining its role in EU legislation.

Accessibility: Member States shall ensure that services provided by media service providers under their jurisdiction are continuously and progressively made more accessible to **persons with disabilities**. Service providers shall be encouraged to develop accessibility action plans. These action plans should be communicated to national regulatory authorities or bodies.

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 shall be prohibited during children´s programmes.

Advertising shall represent a **maximum of 20% of air time between 06.00. and 18.00**. During the period between 18 and 24 hours, advertising may not exceed 20% of the air time. The proportion of television advertising spots and teleshopping spots within the period between 18.00 and 24.00 shall not exceed 20 % of that period. Under no circumstances shall programmes include product placement of cigarettes and other tobacco products, as well as electronic cigarettes and refill containers.

Cultural 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. These obligations shall not apply to media service providers with a low turnover or a low audience.

Transparency and media pluralism: according to the revised Directive, Member States shall be able to determine whether and to what extent information about the **ownership structure** of a media service provider should be accessible to users, provided that the essence of the fundamental rights and freedoms concerned is respected and that such measures are necessary and proportionate. It is for each Member State to decide, in particular with respect to the information which may be provided on ownership structure and beneficial owners.

Audiovisual media services: changing market realities

2016/0151(COD) - 10/05/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Culture and Education adopted the report by Sabine VERHEYEN (EPP, DE) and Petra KAMMEREVERT (S&D, DE) on the proposal for a directive 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 in view of changing market realities.

The committee recommended that the European Parliament's position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

Purpose and scope of the Directive: in general, Members advocated **tightening up the child protection provisions** of EU rules on audiovisual media services and also those on advertising and promoting European audiovisual works. Members seek to enhance the current rules to the increasing convergence of media markets and technologies in Europe. This convergence of media requires an **updated legal framework** in order to reflect developments in the market and to achieve a balance between access to online content services, consumer protection and competitiveness.

The **scope** of the Directive is being extended to cover not only traditional broadcasting and on-demand services, but also **video-sharing platform services as well as user-generated videos**. Members proposed extending the definition of 'programme' to include **family programmes** such as **entertainment and reality programmes**, which are watched by adults and children alike.

In order to **align the provisions** for these services and to create a genuine level playing field, Chapter I of the proposed Directive has been **restructured**. Certain Articles concerning, *inter alia*: incitement to violence or hatred, protection of minors from harmful content, audiovisual commercial communications, sponsoring, co- and self-regulations and codes of conduct, have been merged.

Protection of minors and quotas: Members proposed banning advertising and product placement for tobacco, electronic cigarettes and alcohol in children's TV programmes and video-sharing platforms. The transmission of children's programmes may be interrupted by television advertising once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. The transmission of teleshopping shall be prohibited during children´s programmes. Member States shall remain free to define a prime time window, the duration of which shall not exceed a period of four consecutive hours. Within such a prime time window, the proportion of television advertising spots and teleshopping spots shall not exceed 20 %.

Quantitative advertising rules, commercial communications and product placement: Members called for a higher degree of flexibility on quantitative advertising rules is necessary. Members stated that it is important for broadcasters to have more flexibility and to be able to decide when to place advertising in order to maximise advertisers' demand and viewers' flow. The hourly limit should thus be abolished while a daily limit of 20% of advertising should be introduced. It is also necessary, however, to maintain a sufficient level of consumer protection in that regard because such flexibility could expose viewers to an excessive amount of advertising during prime time. Specific limits should therefore apply within prime time windows.

Commercial communications regarding alcoholic beverages, tobacco and medical products should still be limited. No television advertising or teleshopping shall be inserted during religious services. Members stipulated that isolated advertising and teleshopping spots shall be admissible in sports events.

Limitations for commercial communications concerning nutrition should be agreed in **codes of conduct** in order to achieve a higher level of protection. Those codes shall aim to effectively reduce the exposure of children to audiovisual commercial communications for such foods and beverages.

Promotion of European audiovisual works: in order to reflect Europe's cultural diversity, Members called for a **30% quota of European works** in on-demand platform catalogues, instead of the 20% proposed by the EU Commission.

Members suggested that Member States may require that providers of on-demand audiovisual media services established under their jurisdiction to contribute financially to the production of European works, taking into account the cultural and linguistic diversity of the territorial area in which they are located or provide their service, including via direct investment in content and contributions to national funds.

European Regulators Group for Audiovisual Media Services (ERGA) and the contact committee: while welcoming the contribution of the ERGA as an informative and consultative body, Members suggested that the contact committee should be given more competences. It should decide on opinions, including on jurisdiction and Union rules and codes of conduct in the area of protection of minors and hate speech as well as for audiovisual commercial communications for foods high in fat, salt/sodium and sugars drafted by the ERGA, in order to facilitate coordination with the law of the Member States.

Audiovisual media services: changing market realities

2016/0151(COD) - 25/05/2016 - Legislative proposal

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.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the last substantive amendment to Directive 89/552/EEC of the Council, later codified by Directive 2010/13/EU of the European Parliament and of the Council on audiovisual media services (Audiovisual Media Services Directive), was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council.

Since then, **the audiovisual media landscape is changing at a rapid pace** due to ever-increasing convergence between television and services distributed via the internet. Consumers increasingly access on-demand content via smart/connected TVs and portable devices. Young consumers, particularly, watch videos, including user-generated content, on the internet.

Traditional broadcasting in the EU remains strong in terms of viewership, advertising revenues, and investment in content (around 30% of revenues). However, new business models are emerging.

Underpinning the continued added value of the EU intervention, the Commission stressed that **the EU-wide dimension of the audiovisual market is constantly increasing**, in particular due to online growth and the fact that TV channels are becoming more international:

- at the end of 2013, 5 141 TV channels (not counting local channels and windows) were established in the EU. This share had increased from 28 % in 2009 —year of implementation— to 38 % in 2013;
- as far as video-on-demand services are concerned, 31 % of the video-on-demand services available in Member State on average are established in another EU country (2015).

The Digital Single Market (DSM) strategy for Europe calls for a modernisation of the Audiovisual Media Services Directive (AVMSD) to reflect these market, consumption and technological changes. Pursuant to this commitment and in line with 'Better Regulation' requirements, the **Commission carried out an ex post evaluation** (also called 'REFIT'). It assessed the effectiveness, efficiency, relevance, coherence and EU added-value of the AVMSD, and pinpointed areas where there is potential for simplification, without undermining the objectives of the AVMSD.

IMPACT ASSESSMENT: the combination of preferred options is deemed to strike the best balance between the need to introduce flexibility with respect to the current level of regulation and ensuring adequate consumer protection:

- the **industry** will benefit from more flexible quantitative rules on commercial communications. The increased efficiency of the country of origin principle and the requirements for the independence of regulators would improve the business environment in which audiovisual players operate;
- **consumers** will : (i) be guaranteed a high level of protection through the limited extension of the AVMSD to video-sharing platforms and the reinforcement of the requirements applicable to on-demand services in terms of the protection of minors; (ii) consumers will also benefit from a greater access to European works in on-demand services.

All options take into account, where appropriate, the **need for flexibility for the industry** by considering possible implementation via self and/or co-regulation.

CONTENT: this proposal seeks to amend Directive 2010/13/EU in order to take into account changes in the audiovisual landscape since the last revision to **ensure that the AVMSD will provide a modernised, flexible and forward looking legal framework**.

The main elements of the amended Directive are as follows:

Country of origin principle for media service providers: this principle is maintained and reinforced by simplifying the rules determining which country has jurisdiction and improving the derogation mechanisms in cases of exceptions.

Minimum harmonisation: the amended Directive will continue to be based on minimum harmonisation. However, a higher degree of harmonisation is sought by reinforcing the independence of audiovisual regulators.

The proposal reinforces the role of the European Regulators Group for Audiovisual Media Services (ERGA) by giving it more tasks when advising and assisting the Commission in consistent implementation of the directive in all Member States.

Protection of minors: the proposal provides for alignment of the standards of protection for TV broadcasting and **on-demand services**. It requires that programmes that may impair the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them. This is regardless of whether such programmes are broadcast by TV broadcasters or provided by on-demand media service providers.

Promotion of European works: the proposal creates a more level playing field in the promotion of European works by obliging **on-demand services to reserve at least 20% share for European works** in their catalogues and to ensure adequate prominence of such works.

Member States may also impose **financial contributions** to on-demand services in their jurisdictions as well as, under certain conditions, to those established in a different Member State but targeting their national audiences. In order to ensure that obligations on promotion of European works do not undermine market development and to allow for the entry of new players in the market, companies with no significant presence on the market should not be subject to such requirements.

Balance between competitiveness and consumer protection: the proposal achieves a balance between competitiveness and consumer protection by, on the one hand, introducing more flexibility for all audiovisual media services on product placement and sponsorship and increased flexibility for TV broadcasting.

The hourly limit is replaced by a daily limit of 20% of advertising during the period between **07:00 and 23:00**. Films made for television, cinematographic works and news could be interrupted more often and isolated spots would be admissible.

On the other hand, the future Directive will also strengthen provisions to protect minors from inappropriate audiovisual commercial communications of foods high in fat, salt/sodium and sugars and alcohol beverages by, where necessary, encouraging codes of conduct at EU level.

Scope: a further new feature is the extension of its scope to cover, in certain respects, video-sharing platform services which do not have editorial responsibility for the content that they store but which organise that content, through various means.

Video-sharing platform providers: the amended Directive would introduce an obligation on Member States to ensure that, within their field of responsibility, video-sharing platform providers put in place, preferably through **co-regulation**, appropriate measures to: (i) protect minors from harmful content; and (ii) protect all citizens from incitement to violence or hatred.

Member States continue to be bound by the rules of the e-Commerce Directive (ECD). They would consequently not be allowed to impose on providers any general obligation to monitor content or to actively engage in fact-finding, without precluding the imposition of monitoring requirements in specific cases.

Furthermore, this is also without prejudice to Directive 2011/93/EU, which requires Member States to take measures against websites containing or disseminating child pornography.

Provision of information society services provided from another Member State: the ECD sets out the principle of country of origin, subject to a number of possible exceptions. This system will continue to apply to video-sharing platforms providers.

The proposal seeks to ensure that the same rules also apply to such providers which do not have an establishment in a Member State, but which have a parent company, a subsidiary or another entity of the same group with such an establishment.

Lastly, the Commission would facilitate, with ERGA's support, the **coordination of codes of conduct** at EU level. Moreover, a complaint and redress mechanism should be foreseen at national level.

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.