



## AUDIOVISUAL AND MEDIA POLICY

Audiovisual policy in the EU is governed by Articles 167 and 173 of the Treaty on the Functioning of the European Union (TFEU). The key piece of legislation in this field is the Audiovisual Media Services Directive, which is currently (2018) under revision. The main EU instrument to help the industry (especially the film industry) is the MEDIA sub-programme of Creative Europe. The Charter of Fundamental Rights of the European Union asks for respect for 'freedom and pluralism of the media'.

### LEGAL BASIS

The Treaty of Rome did not provide for any direct powers in the field of audiovisual and media policy, and neither does the TFEU. Jurisdiction over media policy is, instead, drawn from various articles within the TFEU in order to construct policies for the various media and communication technology sectors. This is a necessity arising from the complex nature of media goods and services, which can be defined neither solely as cultural goods nor simply as economic goods. The legal basis is contained in the TFEU in the form of Articles 28, 30, 34, 35 (free movement of goods); 45-62 (free movement of persons, services and capital); 101-109 (competition policy); 114 (technological harmonisation, or the use of similar technological standards, for instance, in internet productions); 165 (education); 166 (vocational training); 167 (culture); 173 (industry); and 207 (common commercial policy).

### OBJECTIVES

According to Article 167 TFEU, the EU encourages cooperation between Member States and, if necessary, supports and supplements their action in the area of artistic and literary creation, including the audiovisual sector. The EU's role in the audiovisual field is to create a single European market for audiovisual services. It is also required to take cultural aspects into account in all its policies. Decisions are reached under the ordinary legislative procedure.

### ACHIEVEMENTS

#### A. Regulatory framework

##### 1. The Audiovisual Media Services Directive (AVMSD)

During the 1980s, new developments in broadcasting technologies led to an increase in the number of commercial TV stations in Europe and to their broadcasts being able to be received in several countries. This gave rise to a need for common minimum



standards, which were first laid out in the 'Television without frontiers' (TVwF) Directive (89/552/EEC). The first revision, in 1997, put in place the 'country of origin' principle, meaning that broadcasters are under the jurisdiction of the Member State in which they are based. New services, such as 'video on demand' (VOD) available over the internet, were added in the 2007 revision. The directive was codified in 2010 and renamed the 'Audiovisual Media Services Directive' (AVMSD).

In the Commission's 2012 report on the application of the AVMSD and in the discussions following the publication of the Commission's 2013 Green Paper, 'Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values', it became clear that audiovisual media services are converging and that the way in which these services are consumed and delivered is changing constantly in line with technological developments.

In order to update the regulatory framework and keep pace with recent developments, on 25 May 2016 the Commission published a new legislative proposal amending the AVMSD. The interinstitutional trilogue negotiations on the text were concluded on 6 June 2018. Key elements of the text agreed include: (1) changing the limit for commercial communications from 12 minutes per hour to 20% per day between 06.00 and 18.00; (2) protecting minors from content that 'may impair' them, with the same regulation applying to traditional broadcasts and on-demand services; (3) extending the provisions on European works to on-demand services providers, which have to ensure that European works make up at least 30% of their catalogues and give these works due prominence; and (4) bringing video-sharing platforms (VSPs) under the scope of the AVMSD for the purposes of combating hate speech and protecting minors from harmful content. The vote in plenary to endorse the new rules took place on 2 October 2018 and the final adoption of the directive will be done by the Council during autumn 2018. The Member States will have 21 months to transpose it into national legislation<sup>[1]</sup>.

The directive contains specific rules to protect minors, with regard to both traditional broadcasting and VOD services. These rules were supplemented by the 1998 and 2006 recommendations on the protection of minors and human dignity. In 2012, the 'European Strategy to make the internet a better place for kids' was adopted, and it is supported under the Connecting Europe Facility by the 'Better Internet for Kids' programme and [portal](#) (previously the 'Safer Internet' programme).

## 2. Copyright in the digital single market

The EU is now working on the modernisation of copyright rules in the digital single market in order to attain several fundamental objectives: (1) more cross-border access to content online; (2) wider opportunities to [use copyrighted materials in education, research and cultural heritage](#); (3) a better functioning copyright marketplace; and (4) implementation of the [Marrakech Treaty](#) in EU law. Negotiations are taking place to discuss the copyright package.

## 3. European film heritage

The EU aims to encourage its Member States to cooperate in the conservation and safeguarding of cultural heritage of European significance (Article 167 TFEU). The

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[1]For further information see procedure file [2016/0151\(COD\)](#).



recommendation to Member States is to methodically collect, catalogue, preserve and restore Europe's film heritage so that it can be passed on to future generations. EU Member States are asked to report every two years on what they have done in this context, and the Commission produces an implementation report on the basis of this information.

## **B. Creative Europe**

The MEDIA sub-programme of the Creative Europe programme is the fifth multiannual programme since 1991 in support of the audiovisual industry. It builds on the success of its predecessors, the MEDIA and MEDIA Mundus programmes (2007-2013). The total budget of Creative Europe amounts to EUR 1.46 billion (2014-2020), a budget increase of 9% compared to the previous programmes. At least 56% of that sum is set aside for the MEDIA sub-programme. It provides support and funding opportunities for film and TV projects, cinema networks, film festivals, audience development, training measures for audiovisual professionals, access to markets, distribution, video game development, online distribution and international co-production funds. On 30 May 2018, the Commission published its proposal for a regulation establishing the future Creative Europe Programme (2021-2027). The budget proposed for the MEDIA strand is of up to EUR 1 081 000 000 (58.43% of the total financial envelope for the new programme). Both Parliament and the Council are currently reviewing the Commission's proposal.

## **C. Media literacy and media pluralism**

Media literacy is the ability to access the media, to understand and to critically evaluate different aspects of the media and media content and to communicate in a variety of contexts. It is a fundamental skill for the younger generation and for adults. The EU considers media literacy to be an important factor for active citizenship in today's information society. The Council conclusions on developing media literacy and critical thinking through education and training of 30 May 2016 underline that media literacy is more important than ever in the age of the internet and social media and that it needs to be an integral part of education and training at all levels.

Media pluralism calls for the need for transparency, freedom and diversity in Europe's media landscape. At the beginning of 2012, the EU established the Centre for Media Pluralism and Media Freedom (CMPF) at the Robert Schuman Centre for Advanced Studies, a research initiative within the European University Institute in Florence, with co-funding from the EU. The CMPF is a further step in the Commission's continuing effort to improve the protection of media pluralism and media freedom in Europe, and to determine the actions that need to be taken at European or national level to foster these objectives.

## **D. Other initiatives**

During the Cannes Film Festival the EU organises discussions and panels on various topics such as film financing, film distribution, audience development and innovation. The [European Film Forum](#) was launched in 2015 and is a platform for structured dialogue between policymakers and the audiovisual sector. A 'New talent in the EU' award was introduced in 2004 in order to publicise young European directors who have



followed MEDIA-sponsored training. The [European Border Breakers Award](#) is a prize for emerging artists, co-funded by the Creative Europe programme.

## ROLE OF THE EUROPEAN PARLIAMENT

Parliament has emphasised that the EU should stimulate the growth and competitiveness of the audiovisual sector while recognising its wider significance in safeguarding cultural diversity.

### 1. European audiovisual industry

Building on its resolution of 16 November 2011 on European cinema in the digital era<sup>[2]</sup>, Parliament's resolution of 28 April 2015 on European film in the digital era<sup>[3]</sup> expresses strong support for European filmmakers and highlights the role of the financial support provided by the MEDIA sub-programme of Creative Europe. It also stresses the importance of film literacy and audience development.

Its resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union<sup>[4]</sup> explores aspects of copyright and the challenges posed by the digital availability of audiovisual works in terms of safeguarding the authors' rights. An implementation report on the Creative Europe programme, and thus the MEDIA sub-programme, was voted in the Committee on Culture and Education (CULT) in January 2017 and the corresponding resolution was adopted in plenary on 2 March 2017<sup>[5]</sup>. This resolution underlined the need for an appropriate budget and simplified administrative procedures in order to achieve greater impact. Members also underlined the importance of easing access to funding for small-scale organisations or projects.

### 2. LUX prize

The LUX prize, which was created by the European Parliament and first awarded in 2007, aims to promote the distribution of European works throughout the EU by providing the means for subtitling a film in the 24 official EU languages, including in the original language of the work and for the deaf and hard of hearing.

### 3. Audiovisual Media Services Directive (AVMSD)

Parliament's resolutions in the 1980s and early 1990s on television repeatedly called for common technical standards for direct broadcasting by satellite and for HDTV. The TVwF Directive was adopted in 1989 and Parliament has strongly supported it ever since. This directive was revised in 1997 and 2007 and then renamed the Audiovisual Media Services Directive (AVMSD). Its approval was the outcome of negotiations between Parliament and the Council that took into account most of the concerns raised in Parliament's first reading.

Parliament has been following the implementation of the AVMSD very closely. In its resolution of 22 May 2013 on the Implementation of the Audiovisual Media

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[2]OJ C 153E, 31.5.2013, p. 102.

[3]OJ C 346, 21.9.2016, p. 10.

[4]OJ C 353E, 3.12.2013, p. 64.

[5]OJ C 263, 25.7.2018, p. 19.



Services Directive<sup>[6]</sup>, Parliament presents several observations and recommendations, in particular as regards accessibility, promotion of European audiovisual works, protection of minors, advertising, future challenges and international competition.

In its resolution of 4 July 2013 on connected TV<sup>[7]</sup>, Parliament called on the Commission to evaluate the extent to which it is necessary to revise the AVMSD and other current requirements laid down in the network and media regulations (e.g. the telecommunications package). The need for revision pertained in particular to the rules on findability and non-discriminatory access to platforms for content providers and content developers as well as for users, expanding the concept of platforms, and to adapting the existing instruments to new constellations, such as the development of Connected TV.

On 12 March 2014, Parliament adopted a resolution on Preparing for a Fully Converged Audiovisual World<sup>[8]</sup> (in response to the Commission's Green Paper on the same issue). In this, Parliament takes note of the convergence of markets, stresses the need to preserve access and findability and to safeguard diversity and funding models, and analyses infrastructure and frequencies, values, and the regulatory framework.

Following up on these parliamentary resolutions and in light of the fast pace of change in the audiovisual sector, on 25 May 2016 the Commission came forward with a proposal for amending the AVMSD. In the framework of the ordinary legislative procedure, the CULT Committee voted on its [report](#) in April 2017, in its role as lead committee on the issue, and decided to open interinstitutional negotiations with the Council. Following the conclusion of the negotiations between the Council and Parliament on 6 June 2018, the Committee vote took place on 11 July 2018. The revised legislation will apply to broadcasters, but also to video-on-demand and video sharing platforms, such as Netflix, YouTube or Facebook, as well as to the live streaming on video sharing platforms. Parliament negotiators also managed to secure enhanced protection for children, stricter rules on advertising, and a requirement that at least 30% of content in programmes on TV channels and VOD platforms must be European. The vote in plenary to adopt the new rules took place on 2 October 2018.

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[6]OJ C 55, 12.2.2016, p. 71.

[7]OJ C 75, 26.2.2016, p. 141.

[8]OJ C 378, 9.11.2017, p. 140.

