Amendment 1

Proposal for a directive
Title 1

**Text proposed by the Commission**  
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

**Amendment**  
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

(Audiovisual Media Services Directive)

Amendment 2

Proposal for a directive
Recital 1

**Text proposed by the Commission**  
(1) The last substantive amendment to Directive 89/552/EEC of the Council\(^27\), later codified by Directive 2010/13/EU of

**Amendment**  
(1) The last substantive amendment to Directive 89/552/EEC of the Council\(^27\), later codified by Directive 2010/13/EU of
the European Parliament and of the Council, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council. Since then, the market of audiovisual media services has evolved significantly and rapidly. Technical developments allow for new types of services and user experiences. The viewing habits, particularly of younger generations, have changed significantly. While the main TV screen remains an important device to share audiovisual experiences, many viewers have moved to other, portable devices to watch audiovisual content. Traditional TV content accounts still for a major share of the average daily viewing time. However, new types of content, such as short videos or user-generated content, gain increasing importance and new players, including providers of video-on-demand services and video-sharing platforms, are now well-established.

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.

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Amendment 3
Proposal for a directive
Recital 2

Text proposed by the Commission


Amendment


30 COM(2015) 192 final

30a P8_TA(2016)0009

30b P7_TA(2013)0329

30c P7_TA(2014)0232

Amendment 4
Proposal for a directive
Recital 3
(3) Directive 2010/13/EU should remain applicable only to those services the principal purpose of which is the provision of programmes in order to inform, entertain or educate. The principal purpose requirement should be also considered to be met if the service has audiovisual content and form which is dissociable from the main activity of the service provider, such as stand-alone parts of online newspapers featuring audiovisual programmes or user-generated videos where those parts can be considered dissociable from their main activity. Social media services are not included, except if they provide a service that falls under the definition of a video-sharing platform. A service should be considered to be merely an indissociable complement to the main activity as a result of the links between the audiovisual offer and the main activity. As such, channels or any other audiovisual services under the editorial responsibility of a provider may constitute audiovisual media services in themselves, even if they are offered in the framework of a video-sharing platform which is characterised by the absence of editorial responsibility. In such cases, it will be up to the providers with editorial responsibility to abide by the provisions of this Directive.

Amendment 5

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

(3a) Editorial decisions are decisions taken on a day-to-day basis, in particular by programme directors and editors-in-chief, in the context of an approved...
programme schedule. The place in which editorial decisions are taken is the normal place of work of the persons who take them.

Amendment 6
Proposal for a directive
Recital 4

Text proposed by the Commission

(4) In order to ensure the effective implementation of this Directive, it is crucial for Member States to keep up-to-date records of the audiovisual media service providers and video-sharing platform providers under their jurisdiction and regularly share those records with their competent independent regulatory authorities and the Commission. Those records should include information about the criteria on which jurisdiction is based.

Amendment

(4) In order to ensure the effective implementation of this Directive, it is crucial for Member States to keep up-to-date, transparent records of the audiovisual media service providers and video-sharing platform providers under their jurisdiction and regularly share those records with their competent independent regulatory authorities and/or bodies and the Commission. Those records should include information about the criteria on which jurisdiction is based.

(The part of this amendment concerning ‘regulatory authorities and/or bodies’ applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Amendment 7
Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Establishing jurisdiction requires an assessment of factual situations against the criteria laid down in Directive 2010/13/EU. The assessment of such factual situations might lead to conflicting results. In the application of the cooperation procedures provided for in Articles 3 and 4 of Directive 2010/13/EU, it is important that the Commission can base its findings on

Amendment

(5) Establishing jurisdiction requires an assessment of factual situations against the criteria laid down in Directive 2010/13/EU. The assessment of such factual situations might lead to conflicting results. In the application of Articles 2, 3 and 4 of Directive 2010/13/EU, it is important that the Commission can base its findings on reliable facts. The European Regulators
reliable facts. The European Regulators Group for Audiovisual Media Services (ERGA) should therefore be empowered to provide opinions on jurisdiction upon the Commission's request.

**Amendment 8**

**Proposal for a directive**

**Recital 7**

*Text proposed by the Commission*

(7) In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda, the Commission stressed that when considering policy solutions, it will consider both regulatory and well-designed non-regulatory means, modelled on the Community of practice and the Principles for Better Self- and Co-regulation. A number of codes set up in the areas coordinated by the Directive have proved to be well designed, in line with the Principles for Better Self- and Co-regulation. The existence of a legislative backstop has been considered an important success factor in promoting compliance with a self- or co-regulatory code. It is equally important that the codes establish specific targets and objectives allowing for the regular, transparent and independent monitoring and evaluation of the objectives aimed by the codes. **Graduated sanctions which maintain an element of proportionality are usually considered to be an effective approach in enforcing a scheme.** These principles should be followed by the self- and co-regulatory codes adopted in the areas coordinated by the ERGA and the contact committee keep each other informed and that they cooperate with regulatory authorities and/or bodies.

*Amendment*

(7) In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda, the Commission stressed that when considering policy solutions, it will consider both regulatory and non-regulatory means, modelled on the Community of practice and the Principles for Better Self- and Co-regulation. A number of codes set up in the areas coordinated by the Directive have proved to be well designed, in line with the Principles for Better Self- and Co-regulation, which constitute a useful additional or complementary means for legislative action. The existence of a legislative backstop has been considered an important success factor in promoting compliance with a self- or co-regulatory code. It is equally important that the codes establish specific targets and objectives allowing for the regular, transparent and independent monitoring and evaluation of the objectives aimed by the codes. These principles should be followed by the self- and co-regulatory codes adopted in the areas coordinated by the ERGA.
Amendment 9
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In order to ensure coherence and give certainty to businesses and Member States' authorities, the notion of "incitement to hatred" should, to the appropriate extent, be aligned to the definition in the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law which defines hate speech as "publicly inciting to violence or hatred". This should include aligning the grounds on which incitement to violence or hatred is based.

Amendment

(8) In order to ensure coherence and legal certainty for Union citizens, businesses and Member States' authorities, "incitement to hatred" should be aligned with the definition in the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law which defines hate speech as "publicly inciting to violence or hatred". The grounds on which incitement to violence and hatred are based should be extended in accordance with the grounds contained in Article 21 of the Charter of Fundamental Rights of the European Union (the Charter).

Amendment 10
Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

(8a) In order to enable citizens to access information, exercise informed choices, evaluate media contexts, and use, critically assess and create audiovisual content responsibly, they need advanced media literacy skills. Such media literacy skills would allow them to understand the nature of content and services, taking
advantage of the full range of opportunities offered by communications technologies, so that they can use media effectively and safely. Media literacy should not be limited to learning about tools and technologies but should aim to equip citizens with the critical thinking skills required to exercise judgement, analyse complex realities, recognise the difference between opinion and fact, and withstand all forms of hate speech. The development of media literacy for all citizens, irrespective of age, should be promoted.

Amendment 11
Proposal for a directive
Recital 9

Text proposed by the Commission

(9) In order to empower viewers, including parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done, for instance, through a system of content descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical or acoustic means.

Amendment

(9) In order to empower viewers, in particular parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about such content, in particular, content that may impair minors' physical, mental or moral development. Video-sharing platform providers should likewise provide such information, within the limits provided for in Articles 14 and 15 of Directive 2000/31/EC of the European Parliament and of the Council.

Amendment 12
Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

(9a) Ensuring the accessibility of audiovisual content is an essential
requirement in the context of the implementation of the United Nations (UN) Convention on the Rights of Persons with Disabilities. The right of persons with an impairment and of the elderly to participate and be integrated in the social and cultural life of the Union is linked to the provision of accessible audiovisual media services. Therefore, Member States should, without undue delay, take appropriate and proportionate measures to ensure that media service providers under their jurisdiction actively seek to make content accessible to persons with a visual or hearing impairment. Accessibility requirements should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time. It should be possible to develop appropriate accessibility measures through self-regulation and co-regulation. In order to facilitate access to information and to address complaints about accessibility issues, Member States should establish a single point of contact, which should be fully accessible online.

Amendment 13
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) Certain widely recognised nutritional guidelines exist at national and international level, such as the WHO Regional Office for Europe's nutrient profile model, in order to differentiate foods on the basis of their nutritional composition in the context of foods television advertising to children. Member States should be encouraged to ensure that self-and co-regulatory codes of conduct

Amendment

(10) Member States should be encouraged to ensure that self-regulation and co-regulation, including codes of conduct, effectively contribute to the objective of the reduction of the exposure of children to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars or fat, or that otherwise do not fit national or international nutritional guidelines. Self-regulation and
are used to effectively reduce the exposure of children and minors to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars or fat or that otherwise do not fit these national or international nutritional guidelines.

**Amendment 14**

Proposal for a directive
Recital 10 a (new)

*Text proposed by the Commission*

(10a) In addition, Member States should ensure that self-regulatory and co-regulatory codes of conduct aim at effectively reducing the exposure of children and minors to audiovisual commercial communications relating to the promotion of gambling. Several co-regulatory or self-regulatory systems exist at Union and national level for the promotion of responsible gambling, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those systems aiming at ensuring that responsible gambling messages accompany audiovisual commercial communications for gambling.

**Amendment 15**

Proposal for a directive
Recital 12

*Text proposed by the Commission*

(12) In order to remove barriers to the free circulation of cross-border services within the Union, it is necessary to ensure the effectiveness of self- and co-regulatory measures aiming, in particular, at protecting consumers or public health.

(12) In order to remove barriers to the free circulation of cross-border services within the Union, it is necessary to ensure the effectiveness of self- and co-regulatory measures aiming, in particular, at protecting consumers or public health.
When well enforced and monitored, codes of conduct at Union level might be a good means of ensuring a more coherent and effective approach.

Amendment 16

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The market for TV broadcasting has evolved and that there is a need for more flexibility with regard to audiovisual commercial communications, in particular for quantitative rules for linear audiovisual media services, product placement and sponsorship. The emergence of new services, including without advertising, has led to a greater choice for viewers, who can easily switch to alternative offers.

Amendment

(13) The market for audiovisual media services has evolved and there is a need for greater clarity and more flexibility in order to ensure a more genuine level playing field for audiovisual commercial communications, sponsorship and product placement. The emergence of new services, including without advertising, has led to a greater choice for viewers, who can easily switch to alternative offers.

Amendment 17

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

(13a) In order to ensure the effectiveness of this Directive, in particular as regards the editorial responsibility of media service providers, the integrity of programmes and services should be safeguarded. Changes in the display of programmes and services that have been initiated by the recipient of a service should be permitted.

Amendment

(13a) In order to ensure the effectiveness of this Directive, in particular as regards the editorial responsibility of media service providers, the integrity of programmes and services should be safeguarded. Changes in the display of programmes and services that have been initiated by the recipient of a service should be permitted.

Amendment 18

Proposal for a directive
Recital 13 b (new)
(13b) Independent audience measurement for audiovisual media services, including audiovisual commercial communications, is needed to ensure the provision of adequate and transparent information to audiovisual media service providers and regulatory authorities and/or bodies.

Justification

This new recital seeks to underline that the measurement of quantitative rules, for example, European works quotas, do require independent measurement to ensure that data is accurate and such provisions are meaningful.

Amendment 19

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Sponsorship represents an important means of financing audiovisual media services or programmes while promoting a legal or physical person's name, trade mark, image, activities or products. As such, for sponsorship to constitute a valuable form of advertising technique for advertisers and audiovisual media service providers, sponsorship announcements can contain promotional references to the goods or services of the sponsor, while not directly encouraging the purchase of the goods and services. Sponsorship announcements should continue to clearly inform the viewers of the existence of a sponsorship agreement. The content of sponsored programmes should not be influenced in such a way as to affect the audiovisual media service provider's editorial independence.

Amendment 20

Proposal for a directive

(14) Sponsorship represents an important means of financing audiovisual content. Sponsorship announcements should continue to clearly inform the viewers of the existence of a sponsorship agreement. Sponsored content should not be influenced in such a way as to affect the service provider's editorial independence.
Recital 15

Text proposed by the Commission

(15) The liberalisation of product placement has not brought about the expected take-up of this form of audiovisual commercial communication. In particular, the general prohibition of product placement with some exceptions has not created legal certainty for audiovisual media service providers. Product placement should thus be allowed in all audiovisual media services, subject to exceptions.

Amendment

(15) The liberalisation of product placement has not brought about the expected take-up of this form of audiovisual commercial communication. In particular, the general prohibition of product placement with some exceptions has not created legal certainty for audiovisual media service providers. Product placement should thus be allowed in all audiovisual media services and video-sharing platform services, subject to exceptions, as it can create additional income for audiovisual media service providers.

Justification

It is necessary to reflect the integration of user-generated videos within the product placement rules under AVMS.

Amendment 21

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

Text proposed by the Commission

(15a) In order to protect the editorial responsibility of the media service providers and the audiovisual value chain, it is essential that the integrity of the programmes and services supplied by media service providers be guaranteed. Programmes and services should be transmitted without being shortened, altered or interrupted. Programmes and services should not be modified without the consent of the media service provider.

Amendment

(15a) In order to protect the editorial responsibility of the media service providers and the audiovisual value chain, it is essential that the integrity of the programmes and services supplied by media service providers be guaranteed. Programmes and services should be transmitted without being shortened, altered or interrupted. Programmes and services should not be modified without the consent of the media service provider.

Justification

Third parties should not be allowed to modify programmes and services without the consent of the media service provider.
Amendment 22

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Product placement should not be admissible in news and current affairs programmes, consumer affairs programmes, religious programmes and programmes with a significant children’s audience. In particular, evidence shows that product placement and embedded advertisements can affect children’s behaviour as children are often not able to recognise the commercial content. There is thus a need to continue to prohibit product placement in programmes with a significant children’s audience. Consumer affairs programmes are programmes offering advice to viewers, or including reviews on the purchase of products and services. Allowing product placement in such programmes would blur the distinction between advertising and editorial content for viewers who may expect a genuine and honest review of products or services in such programmes.

Amendment

(16) Product placement should not be admissible in news and current affairs programmes, consumer affairs programmes, religious programmes and children’s programmes and content aimed primarily at children. In particular, evidence shows that product placement and embedded advertisements can affect children’s behaviour as children are often not able to recognise the commercial content. There is thus a need to continue to prohibit product placement in children’s programmes and content aimed primarily at children. Consumer affairs programmes are programmes offering advice to viewers, or including reviews on the purchase of products and services. Allowing product placement in such programmes would blur the distinction between advertising and editorial content for viewers who may expect a genuine and honest review of products or services in such programmes.

Amendment 23

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) The rule that a product should not be given undue prominence has proved difficult to apply in practice. It also restricts the take-up of product placement which, by definition, involves some level of prominent exposure to be able to generate value. The requirements for programmes containing product placement should thus focus on clearly informing the viewers of the existence of product placement and on ensuring that the audiovisual media service provider's

Amendment

deleted
editorial independence is not affected.

Amendment 24

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) While this Directive does not increase the overall amount of admissible advertising time during the period from 7:00 to 23:00, 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 within the period from 7:00 to 23:00 should be introduced.

Amendment

(19) 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.

Amendment 25

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Many broadcasters are part of larger media groups and make announcements not only in connection with their own programmes and ancillary products directly derived from those programmes but also in relation to programmes from other entities belonging to the same media group. Transmission time allotted to announcements made by the broadcaster in connection with programmes from other entities belonging to the same media group should not be included in the maximum amount of daily transmission time that may be allotted to advertising and teleshopping.

Amendment

(20) Many broadcasters are part of larger broadcasting groups and make announcements not only in connection with their own programmes and ancillary products and audiovisual media services directly derived from those programmes but also in relation to programmes, products and services from other entities belonging to the same broadcasting group. Transmission time allotted to announcements made by the broadcaster in connection with programmes from other entities belonging to the same broadcasting group should also not be included in the maximum amount of daily transmission time that may be allotted to advertising and teleshopping.
Amendment 26
Proposal for a directive
Recital 21

**Text proposed by the Commission**

(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that those are given enough prominence. This should allow users of on-demand audiovisual media services to easily discover and find European works, while promoting cultural diversity. To that end, rights holders should be able to label their audiovisual content that qualifies as a European work as such in their metadata and make it available to media service providers.

**Amendment**

(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that those are given enough prominence. This should allow users of on-demand audiovisual media services to easily discover and find European works, while promoting cultural diversity. To that end, rights holders should be able to label their audiovisual content that qualifies as a European work as such in their metadata and make it available to media service providers.

Amendment 27
Proposal for a directive
Recital 22

**Text proposed by the Commission**

(22) In order to ensure adequate levels of investment on European works, Member States should be able to impose financial obligations to on-demand service providers established on their territory. Those obligations can take the form of direct contributions to the production of and acquisition of rights in European works. The Member States could also impose levies payable to a fund, on the basis of the revenues made with on-demand services that are provided in and targeted towards their territory. This Directive clarifies that, given the direct link between financial obligations and Member States' different cultural policies, Member States are also allowed to impose such financial obligations on providers of on-demand services established in another Member State which are targeted towards its

**Amendment**

(22) In order to ensure adequate levels of investment on European works, Member States should be able to impose financial obligations to on-demand service providers established under their jurisdiction. Those obligations can take the form of direct contributions to the production of and acquisition of rights in European works. The Member States could also impose levies payable to a fund, on the basis of the revenues made with on-demand services that are provided in and targeted towards their territory. This Directive clarifies that, given the direct link between financial obligations and Member States' different cultural policies, Member States are also allowed to impose such financial obligations on providers of on-demand services established in another Member State which are targeted towards its
territory. In this case financial obligations should only be charged on the revenues generated through the audience in that Member State.

Amendment 28
Proposal for a directive
Recital 26

Text proposed by the Commission

(26) There are new challenges, in particular in connection with video-sharing platforms, on which users - particularly minors - increasingly consume audiovisual content. In this context, harmful content and hate speech stored on video-sharing platforms have increasingly given rise to concern. It is necessary, in order to protect minors from harmful content and all citizens from content containing incitement to violence or hatred, to set out proportionate rules on those matters.

Amendment

(26) There are new challenges, in particular in connection with video-sharing platforms, on which users - particularly minors - increasingly consume audiovisual content. **Illegal**, harmful, **racist and xenophobic content and hate speech hosted on video-sharing platforms have increasingly given rise to concern. In addition, the decision to remove such content, being often dependent on a subjective interpretation, can undermine the freedom of expression and information. In this context, it is necessary, in order to protect minors from harmful content and all citizens from content containing incitement to violence or hatred **hosted on video-sharing platforms**, and also to protect and guarantee the fundamental rights of **users**, to set out **common and proportionate rules on those matters. Such rules should, in particular, further define at Union level the characteristics of "harmful content" and "incitement to violence and hatred", taking into account the intention and effect of such content. Self-regulatory and co-regulatory measures implemented or approved by Member States or by the Commission should fully respect the rights, freedoms**
and principles set out in the Charter, in particular Article 52 thereof. Regulatory authorities and/or bodies should retain effective enforcement powers in this regard.

Amendment 29
Proposal for a directive
Recital 26 a (new)

Text proposed by the Commission

(26a) In Directive (EU) 2017/XXX [replace with reference to the Directive on combating terrorism once that is published and update Article number], public provocation to commit a terrorist offence is defined as an offence related to terrorist activities and is punishable as a criminal offence. Member States should take the necessary measures to ensure the prompt removal of content constituting a public provocation to commit a terrorist offence.

Amendment 30
Proposal for a directive
Recital 27

Text proposed by the Commission

(27) As regards commercial communications on video-sharing platforms, they are already regulated by Directive 2005/29/EC of the European Parliament and of the Council, which prohibits unfair business-to-consumer commercial practices, including misleading and aggressive practices occurring in information society services. As regards commercial communications concerning tobacco and related products in video-sharing platforms, the existing prohibitions provided for in Directive 2003/33/EC of the European Parliament and of the Council, as well as the prohibitions

Amendment 31

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) An important share of the content stored on video-sharing platforms is not under the editorial responsibility of the video-sharing platform provider. However, those providers typically determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms. Therefore, those providers should be required to take appropriate measures to protect minors from content that may impair their physical, mental or moral development and protect all citizens from incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, race, colour, religion, descent or national or ethnic origin.

Amendment

(28) Some of the content hosted on video-sharing or social-media platforms is not under the editorial responsibility of the platform provider. However, those providers typically determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms. Therefore, those providers should be required to take appropriate measures to protect minors from content that may impair their physical, mental or moral development and protect all users from incitement to terrorism or from incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health. Those grounds are intended to further specify the characteristics of "publicly inciting to violence or hatred" but should not alone be considered as a basis for
Amendment 32
Proposal for a directive
Recital 29

Text proposed by the Commission

(29) In light of the nature of the providers' involvement with the content stored on video-sharing platforms, those appropriate measures should relate to the organisation of the content and not to the content as such. The requirements in this regard as set out in this Directive should therefore apply without prejudice to Article 14 of Directive 2000/31/EC of the European Parliament and of the Council34, which provides for an exemption from liability for illegal information stored by certain providers of information society services. When providing services covered by Article 14 of Directive 2000/31/EC, those requirements should also apply without prejudice to Article 15 of that Directive, which precludes general obligations to monitor such information and to actively seek facts or circumstances indicating illegal activity from being imposed on those providers, without however concerning monitoring obligations in specific cases and, in particular, without affecting orders by national authorities in accordance with national legislation.

Amendment

(29) In light of the nature of the providers' relationship with the content hosted on video-sharing platforms, those appropriate measures should relate to the organisation of the content and not to the content as such. The requirements in this regard as set out in this Directive should therefore apply without prejudice to Article 14 of Directive 2000/31/EC of the European Parliament and of the Council34, which provides for an exemption from liability for illegal information stored by certain providers of information society services. When providing services covered by Article 14 of Directive 2000/31/EC, those requirements should also apply without prejudice to Article 15 of that Directive, which precludes general obligations to monitor such information and to actively seek facts or circumstances indicating illegal activity from being imposed on those providers, without however concerning monitoring obligations in specific cases and, in particular, without affecting orders by national authorities in accordance with national legislation.

(30) It is appropriate to involve the video-sharing platform providers as much as possible when implementing the appropriate measures to be taken pursuant to this Directive. Co-regulation should therefore be encouraged. With a view to ensuring a clear and consistent approach in this regard across the Union, Member States should not be entitled to require video-sharing platform providers to take stricter measures to protect minors from harmful content and all citizens from content containing incitement to violence or hatred than the ones provided for in this Directive. However, it should remain possible for Member States to take stricter measures where that content is illegal, provided that they comply with Articles 14 and 15 of Directive 2000/31/EC, and to take measures with respect to content on websites containing or disseminating child pornography, as required by and allowed under Article 25 of Directive 2011/93/EU of the European Parliament and the Council. It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis in accordance with Union law, respecting the freedom of expression and information and media pluralism.

covered by this Directive provide information society services within the meaning of point (a) of Article 2 of Directive 2000/31/EC. Those providers are consequently subject to the rules on the internal market set out in Article 3 of that Directive, if they are established in a Member State. It is appropriate to ensure that the same rules apply to video-sharing platform providers which are not established in a Member State with a view to safeguarding the effectiveness of the measures to protect minors and citizens set out in this Directive and ensuring a level playing field in as much as possible, in as far as those providers have either a parent company or a subsidiary which is established in a Member State or where those providers are part of a group and another entity of that group is established in a Member State. To that effect, arrangements should be made to determine in which Member State those providers should be deemed to have been established. The Commission should be informed of the providers under each Member State's jurisdiction in application of the rules on establishment set out in this Directive and in Directive 2000/31/EC.

Given the wide audience of video-sharing platforms and social media, it is appropriate that the Member State having jurisdiction over such a platform coordinate with the other Member States concerned for the regulation of those platforms. The Commission should be informed of the providers under each Member State's jurisdiction in application of the rules on establishment set out in this Directive and in Directive 2000/31/EC. In this regard, the concept of ‘video-sharing platform provider’ should be understood in the broadest sense of the term, so as to include linear service providers and platforms for the retransmission of audiovisual media services, regardless of the technical means used for retransmission, such as cable, satellite or the internet.
Justification

Video-sharing platforms and social media may target audiences in the entire Union, but only the Member State in which they are deemed to be established will have jurisdiction over them. It is therefore necessary that Member States cooperate effectively for the regulation of these platforms, in order to guarantee a smooth functioning of the Digital Single Market and to effectively protect European citizens.

Amendment 35

Proposal for a directive
Recital 33

Text proposed by the Commission

(33) Regulatory authorities of the Member States can achieve the requisite degree of structural independence only if established as separate legal entities. Member States should therefore guarantee the independence of the national regulatory authorities from both the government, public bodies and the industry with a view to ensuring the impartiality of their decisions. This requirement of independence should be without prejudice to the possibility for Member States to establish regulators having oversight over different sectors, such as audiovisual and telecom. National regulatory authorities should be in possession of the enforcement powers and resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of national regulatory authorities established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition.

Amendment

(33) Member States should guarantee the independence of the regulatory authorities and/or bodies from both the government, public bodies and the industry with a view to ensuring the impartiality of their decisions. This requirement of independence should be without prejudice to the possibility for Member States to establish regulators having oversight over different sectors, such as audiovisual and telecommunications. Regulatory authorities and/or bodies should be in possession of the enforcement powers and resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of regulatory authorities and/or bodies established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition. In that respect, it is necessary that regulatory authorities and/or bodies support audiovisual media services providers in the exercise of their editorial independence.
Amendment 36

Proposal for a directive
Recital 35

Text proposed by the Commission

(35) With a view to ensuring the consistent application of the Union audiovisual regulatory framework across all Member States, the Commission established ERGA by Commission Decision of 3 February 2014. ERGA's role is to advise and assist the Commission in its work to ensure a consistent implementation of Directive 2010/13/EU in all Member States, and to facilitate cooperation among the national regulatory authorities, and between the national regulatory authorities and the Commission.


Amendment 37

Proposal for a directive
Recital 36

Text proposed by the Commission

(36) ERGA has made a positive contribution towards consistent regulatory practice and has provided high level advice to the Commission on implementation matters. This calls for the formal recognition and reinforcement of its role in this Directive. The group should therefore be re-established by virtue of this Directive.


Amendment

(35) With a view to ensuring the consistent application of the Union audiovisual regulatory framework across all Member States, the Commission established the ERGA by Commission Decision of 3 February 2014. The ERGA's role is to act as an independent expert advisory group and assist the Commission in its work to ensure a consistent implementation of Directive 2010/13/EU in all Member States, and to facilitate cooperation among the regulatory authorities and/or bodies, and between the regulatory authorities and/or bodies and the Commission.

(36) The ERGA and the contact committee have made a positive contribution towards consistent regulatory practice and have provided high level and independent advice to the Commission on implementation matters.
Amendment 38

Proposal for a directive
Recital 37

Text proposed by the Commission

(37) The Commission should be free to consult ERGA on any matter relating to audiovisual media services and video-sharing platforms. ERGA should assist the Commission by providing its expertise and advice and by facilitating exchange of best practices. In particular, the Commission should consult ERGA in the application of Directive 2010/13/EU with a view to facilitating its convergent implementation across the Digital Single Market. Upon the Commission’s request, ERGA should provide opinions, including on jurisdiction and Union codes of conduct in the area of protection of minors and hate speech as well as audiovisual commercial communications for foods high in fat, salt/sodium and sugars.

Amendment

(37) The Commission should be free to consult the contact committee on any matter relating to audiovisual media services and video-sharing platforms. It should also be possible for the ERGA to assist the Commission by providing its expertise and advice and by facilitating exchange of best practices. The Commission should be able to consult the contact committee in the application of Directive 2010/13/EU with a view to facilitating its consistent implementation across the Digital Single Market. The contact committee 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.

Amendment 39

Proposal for a directive
Recital 38

Text proposed by the Commission

(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure discoverability and accessibility of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in

Amendment

(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure the appropriate prominence of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. Where Member States decide to impose
particular examine the need for regulatory intervention against the results of the outcome of market forces. Where Member States decide to impose discoverability rules, they should only impose proportionate obligations on undertakings, in the interest of legitimate public policy considerations.

Amendment 40
Proposal for a directive
Recital 38 a (new)

Text proposed by the Commission

(38a) The means to achieve accessibility should include, but not be limited to, access services such as sign language interpretation, subtitling for the deaf and hard of hearing, spoken subtitles, audio-description, and easily understandable menu navigation. Media service providers should be transparent and proactive in improving such access services for persons with disabilities and for the elderly, indicating clearly in the programme information as well as in the electronic programming guide their availability, listing and explaining how to use the accessibility features of the services, and ensuring that they are accessible for persons with disabilities.

Amendment 41
Proposal for a directive
Recital 39

Text proposed by the Commission

(39) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for

Amendment

(39) Member States, when implementing this Directive, are under the obligation to respect fundamental rights and observe the principles recognised in particular by the Charter. In particular, Member States should ensure that national laws,
the right to freedom of expression, the freedom to conduct a business, the right to judicial review and to promote the application of the rights of the child enshrined in the Charter of Fundamental Rights of the European Union.

regulations and administrative provisions transposing this Directive do not directly or indirectly undermine the right to freedom of expression, the freedom to conduct a business, the right to judicial review and to promote the application of the rights of the child and the right to non-discrimination enshrined in the Charter.

Amendment 42

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point a
Directive 2010/13/EU
Article 1 – paragraph 1 – point a – point i

Text proposed by the Commission

(i) a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or a dissociable section thereof is devoted to providing programmes, under the editorial responsibility of a media service provider, in order to inform, entertain or educate, to the general public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. Such an audiovisual media service is either a television broadcast as defined in point (e) of this paragraph or an on-demand audiovisual media service as defined in point (g) of this paragraph;

Amendment

(i) a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or a dissociable section of a wider service thereof is devoted to providing programmes, under the editorial responsibility of a media service provider, in order to inform, entertain or educate, to the general public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. Such an audiovisual media service is either a television broadcast as defined in point (e) of this paragraph or an on-demand audiovisual media service as defined in point (g) of this paragraph;

Amendment 43

Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2010/13/EU
Article 1 – paragraph 1 – point a a

Text proposed by the Commission

"(aa) 'video-sharing platform service' means a service, as defined by Articles 56

Amendment

"(aa) 'video-sharing platform service' means a service, as defined by Articles 56
and 57 of the Treaty on the Functioning of the European Union, which meets the following requirements:

(i) the service consists of the **storage of a large amount of** programmes or user-generated videos, for which the video-sharing platform provider does not have editorial responsibility;

(ii) the organisation of the **stored** content is determined by the provider of the service including by automatic means or algorithms, in particular by hosting, displaying, tagging and sequencing;

(iii) the principal purpose of the service or a dissociable section **thereof** is devoted to providing programmes and user-generated videos to the general public, in order to inform, entertain or educate;

(iv) the service is made available by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC."

**Amendment 44**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 – point c**
Directive 2010/13/UE

Article 1– paragraph 1 – point b

*Text proposed by the Commission*  
(b) ‘programme’ means a set of moving images with or without sound constituting an individual item within a schedule or a catalogue established by a media service provider, including feature-length films, videos of short duration, sports events, situation comedies, documentaries, children’s programmes and original

*Amendment*  
(b) ‘programme’ means a set of moving images with or without sound constituting an individual item within a schedule or a catalogue established by a media service provider, including feature-length films, videos of short duration, sports events, situation comedies, documentaries, children’s programmes, **entertainment and**
drama;"; reality programmes, and original drama;

*Justification*

Since we are concerned here with programmes affected by advertising restrictions or adaptations, the definition of 'programme' must be extended to include family programmes such as entertainment and reality programmes, which are watched by adults and children alike.

**Amendment 45**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 – point d**

Directive 2010/13/EU

Article 1 – paragraph 1 – point b a

*Text proposed by the Commission*

(ba) 'user-generated video' means a set of moving images with or without sound constituting an individual item that is created and/or uploaded to a video-sharing platform by one or more users;

*Amendment*

(ba) 'user-generated video' means a set of moving images with or without sound constituting an individual item that is uploaded to a video-sharing platform;

**Amendment 46**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 – point d a (new)**

Directive 2010/13/EU

Article 1 – paragraph 1 – point b b (new)

*Text proposed by the Commission*

(da) the following point (bb) is inserted:

'(bb) 'editorial decision' means a decision taken on a day-to-day basis for the purpose of exercising editorial responsibility;’

**Amendment 47**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 – point d b (new)**

Directive 2010/13/EU

Article 1 – paragraph 1 – point b c (new)
Text proposed by the Commission

Amendment

(db) the following point (bc) is inserted:

‘(bc) ‘access service’ means an add-on feature of the audiovisual media service that improves the accessibility of programmes for people with functional limitations, including persons with disabilities;’

Amendment 48

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point e a (new)

Present text

‘(k) ‘sponsorship’ means any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programmes with a view to promoting their name, trade mark, image, activities or products;’

Amendment

(ea) point (k) is replaced by the following:

‘(k) ‘sponsorship’ means any direct or indirect contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services, video-sharing platform services or user-generated videos or in the production of audiovisual works, to the financing of the audiovisual media services, or the video-sharing platform services, or the user-generated videos or the programmes with a view to promoting their name, trade mark, image, activities or products;’

Amendment 49

Proposal for a directive

Article 1 – paragraph 1 – point 1 – point e b (new)

Present text

‘(m) ‘product placement’ means any form

Amendment

(eb) point (m) is replaced by the following:

‘(m) ‘product placement’ means any form
of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration;’

Amendment 50

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2010/13/EU
Article 2 – paragraph 3 – point b

Text proposed by the Commission

(a) in paragraph 3, point (b) is replaced by the following:

“(b) if a media service provider has its head office in one Member State but editorial decisions on the audiovisual media service are taken in another Member State, it shall be deemed to be established in the Member State where the majority of the workforce involved in the pursuit of the audiovisual media service activity operates;”

Amendment 51

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a (new)
Directive 2010/13/EU
Article 2 – paragraph 4

Present text

4. Media service providers to whom the provisions of paragraph 3 are not applicable shall be deemed to be under the jurisdiction of a Member State in the following cases:

(a) they use a satellite up-link situated in that Member State;
(b) although they do not use a satellite

Amendment

(aa) paragraph 4 is replaced by the following:

‘4. Media service providers to whom the provisions of paragraph 3 are not applicable shall be deemed to be under the jurisdiction of a Member State in the following cases:

(a) they use a satellite up-link situated in that Member State; or
(b) they use satellite capacity
up-link situated in that Member State, they use satellite capacity appertaining to that Member State.

(This amendment seeks to amend a provision within the existing act - Article 2, paragraph 4, point m - that was not referred to in the Commission proposal. Please note however that this amendment does not open any new substantial point in the revision of the Directive, but merely introduces a change necessary to ensure the legal consistency with the Rapporteurs' position.)

Justification

The up-link location can change in a very short period of time. Clarifying this provision enables national regulatory bodies to determine quickly which jurisdiction is applicable at a very specific moment in time.

Amendment 52

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point b
Directive 2010/13/EU
Article 2 – paragraphs 5 a and 5 b

Text proposed by the Commission

5a. Member States shall communicate to the Commission a list of the audiovisual media service providers under their jurisdiction and the criteria set out in paragraphs 2 to 5 on which their jurisdiction is based. They shall subsequently inform the Commission without undue delay of any changes to that list. The Commission shall ensure that the competent independent regulatory authorities have access to this information.

Amendment

5a. Member States shall maintain a list of the audiovisual media service providers under their jurisdiction and the criteria set out in paragraphs 2 to 5 on which their jurisdiction is based. That list shall also include information on the Member States to which the audiovisual media service is made available and on the language versions of the service. Member States shall ensure that regulatory authorities and/or bodies share such lists with the Commission and the European Regulators Group for Audiovisual Media Services (ERGA) by means of a central database and make them publicly available. Those lists shall be updated, without undue delay, whenever changes occur.

5b. Where, in applying Articles 3 and 4 of this Directive, the Member States concerned do not agree on which Member State has jurisdiction, they shall bring the matter to the Commission's attention without undue delay. The Commission
may request the **European Regulators Group for Audiovisual Media Services (ERGA)** to provide an opinion on the matter within 15 working days from submission of the Commission's request. If the Commission requests an opinion from ERGA, the time-limits set out in Articles 3(5) and 4(5) shall be suspended until ERGA has adopted an opinion.

may request that the **ERGA** provide an opinion on the matter within 15 working days from submission of the Commission's request. **The opinion of the ERGA shall also be sent to the contact committee.** If the Commission requests an opinion from the **ERGA**, the time-limits set out in Articles 3(5) and 4(5) shall be suspended until the **ERGA** has adopted an opinion.

**The Commission shall decide on which Member State has jurisdiction following the request of the Member State concerned or following the opinion provided by the ERGA.**

**Amendment 53**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 3 – point b a (new)**

**Directive 2010/13/EU**

**Article 2 – paragraph 5 b a (new)**

Text proposed by the Commission

Amendment

**(ba) The following paragraph is inserted:**

‘5ba. The Commission shall decide within one month of receipt of the notification referred to in paragraph 5b or of the provision of the opinion by the ERGA.’

**Justification**

The aim of the amendment is to set for the EC a deadline to take a decision resolving the dispute concerning competent jurisdiction.

**Amendment 54**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 4**

**Directive 2010/13/EU**

**Article 3**

Text proposed by the Commission

Amendment

‘Article 3

1. Member States shall ensure freedom

1. Member States shall ensure freedom
of reception and shall not restrict retransmissions on their territory of audiovisual media services from other Member States for reasons which fall within the fields coordinated by this Directive.

2. Member States may provisionally derogate from paragraph 1 if an audiovisual media service provided by a media service provider under the jurisdiction of another Member State:

(a) manifestly, seriously and gravely infringes Articles 6 or 12, or both;
(b) prejudices or presents a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence; or
(c) prejudices or presents a serious and grave risk of prejudice to public health.

3. Member States may only apply paragraph 2 where the following conditions are met:

(a) during the 12 months preceding the notification referred to in point (b) of this paragraph the media service provider has, in the opinion of the Member State concerned, contravened point (a), (b) or (c) of paragraph 2 on at least two occasions;
(b) the Member State concerned has notified the media service provider, the Member State which has jurisdiction over the provider and the Commission in writing of the alleged contraventions and of the measures it intends to take should any such alleged contraventions occur again;
(c) consultations with the Member State which has jurisdiction over the provider and the Commission have not produced an amicable settlement within one month of the notification provided for in point (b);
(d) the media services provider has contravened point (a), (b) or (c) of paragraph 2 at least once after the
Points (a) and (d) of paragraph 3 shall apply only in respect of linear services.

4. The Commission shall, within three months following the notification of the measures taken by the Member State in application of paragraphs 2 and 3 and after having consulted ERGA, take a decision on whether those measures are compatible with Union law. That period shall begin on the day following the receipt of a complete notification. The notification shall be considered as complete if, within three months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.

Where the Commission considers the notification as incomplete, it shall request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.

Where the Member State concerned does not provide the information requested within the period fixed by the Commission or where it provides incomplete information, the Commission shall take a decision that the measures taken by the Member State in accordance with paragraph 2 are incompatible with Union law. If the Commission decides that the measures are incompatible with Union law, the Member State shall put an end to the measures in question as a matter of urgency within two weeks of the date of

(e) the notifying Member State has respected the rights of defence of the media services provider concerned and, in particular, has given the media services provider the opportunity to express its views on the alleged contraventions and the measures that that Member State intends to take. It shall duly take into account those views as well as the views of the Member State of jurisdiction.

Points (a) and (d) of paragraph 3 shall apply only in respect of linear services.

4. The Commission shall, within three months following the notification of the measures taken by the Member State in application of paragraphs 2 and 3 and after having consulted ERGA, take a decision on whether those measures are compatible with Union law. That period shall begin on the day following the receipt of a complete notification. The notification shall be considered as complete if, within three months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.

Where the Commission considers the notification as incomplete, it shall request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.

Where the Member State concerned does not provide the information requested within the period fixed by the Commission or where it provides incomplete information, the Commission shall take a decision that the measures taken by the Member State in accordance with paragraph 2 are incompatible with Union law. If the Commission decides that the measures are incompatible with Union law, the Member State shall put an end to the measures in question as a matter of urgency within two weeks of the date of
5. Paragraphs 3 and 4 shall be without prejudice to the application of any procedure, remedy or sanction to the contraventions in question in the Member State which has jurisdiction over the media service provider concerned.

6. Member States may, in urgent cases, derogate from the conditions laid down in points (b) and (c) of paragraph 3. Where this is the case, the measures shall be notified in the shortest possible time to the Commission and to the Member State which has jurisdiction over the media service provider, setting out the reasons for which the Member State considers that there is such urgency that derogating from those conditions is necessary.

7. Without prejudice to the Member State’s possibility of proceeding with the measures referred to in paragraph 6, the Commission shall examine the compatibility of the notified measures with Union law in the shortest possible time. Where it comes to the conclusion that the measures are incompatible with Union law, the Commission shall require the Member State concerned to refrain from taking any intended measures or urgently to put an end to those measures.

8. Member States and the Commission shall regularly exchange experiences and best practices regarding the procedure set out in paragraphs 2 to 7 in the framework of the contact committee established pursuant to Article 29 and ERGA.’;

Amendment 55

Proposal for a directive
Article 1 – paragraph 1 – point 5
Directive 2010/13/EU
Article 4
(5) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘Article 4

1. Member States shall remain free to require media service providers under their jurisdiction to comply with more detailed or stricter rules with regard to Articles 5, 6, 6a, 9, 10, 11, 12, 13, 16, 17, 19 to 26, 30 and 30a, provided that such rules are in compliance with Union law.

2. In cases where a Member State:

(a) has exercised its freedom under paragraph 1 to adopt more detailed or stricter rules of general public interest; and

(b) assesses that a broadcaster under the jurisdiction of another Member State provides a television broadcast which is wholly or mostly directed towards its territory;

it may contact the Member State having jurisdiction with a view to achieving a mutually satisfactory solution to any problems posed. On receipt of a substantiated request by the first Member State, the Member State having jurisdiction shall request the broadcaster to comply with the rules of general public interest in question. The Member State having jurisdiction shall inform the first Member State of the results obtained following this
request within 2 months. Either Member State may invite the contact committee established pursuant to Article 29 to examine the case.

(b) in paragraph 3, the following second subparagraph is inserted after point (b) of the first subparagraph:

3. The first Member State may adopt appropriate measures against the broadcaster concerned where it assesses that:

(a) the results achieved through the application of paragraph 2 are not satisfactory; and

(b) the broadcaster in question has established itself in the Member State having jurisdiction in order to circumvent the stricter rules, in the fields coordinated by this Directive, which would be applicable to it if it were established in the first Member State.

The Member State which took steps in accordance with points (a) and (b) of paragraph 2 should substantiate the grounds on which it bases its assessment of the alleged circumvention.

Such measures shall be objectively necessary, applied in a non-discriminatory manner and proportionate to the objectives which they pursue.

(c) paragraphs 4 and 5 are replaced by the following:

4. A Member State may take measures pursuant to paragraph 3 only where the following conditions are met:

(a) it has notified the Commission and the Member State in which the broadcaster is established of its intention to take such measures while substantiating the grounds on which it bases its assessment;

(b) it has respected the rights of defence of the broadcaster concerned and, in particular, has given the broadcaster the opportunity to express its views on the following this request within 2 months. Either Member State may invite the contact committee to examine the case.

(b) paragraph 3 is replaced by the following:

3. The first Member State may adopt appropriate measures against the media service provider concerned where it assesses that:

(a) the results achieved through the application of paragraph 2 are not satisfactory; and

(b) the media service provider in question has established itself in the Member State having jurisdiction in order to circumvent the stricter rules, in the fields coordinated by this Directive, which would be applicable to it if it were established in the first Member State.

The Member State which took steps in accordance with points (a) and (b) of paragraph 2 should substantiate the grounds on which it bases its assessment of the alleged circumvention.

Such measures shall be objectively necessary, applied in a non-discriminatory manner and proportionate to the objectives which they pursue.

(c) paragraphs 4 and 5 are replaced by the following:

4. A Member State may take measures pursuant to paragraph 3 only where the following conditions are met:

(a) it has notified the Commission and the Member State in which the media service provider is established of its intention to take such measures while substantiating the grounds on which it bases its assessment;

(b) it has respected the rights of defence of the media service provider concerned and, in particular, has given the media service provider the opportunity to express
alleged circumvention and the measures the notifying Member States intends to take;

c) the Commission has decided, after having consulted ERGA, that the measures are compatible with Union law, in particular that assessments made by the Member State taking those measures under paragraphs 2 and 3 are correctly founded.

5. The Commission shall decide within 3 months following the notification provided for in point (a) of paragraph 4. That period shall begin on the day following the receipt of a complete notification. The notification shall be considered as complete if, within 3 months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.

Where the Commission considers the notification as incomplete, it shall request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.

Where the Member State concerned does not provide the information requested within the period fixed by the Commission or provides incomplete information, the Commission shall take a decision that the measures taken by the Member State in accordance with paragraph 3 are incompatible with Union law. If the Commission decides that the measures are incompatible with Union law, the Member State in question shall refrain from taking the intended measures.

6. Member States shall, by appropriate means, ensure, within the framework of their legislation, that media service providers under their jurisdiction effectively comply with the provisions of its views on the alleged circumvention and the measures the notifying Member States intends to take;

c) the Commission has decided, after having consulted the contact committee and the ERGA, that the measures are compatible with Union law, in particular that assessments made by the Member State taking those measures under paragraphs 2 and 3 are correctly founded.

5. The Commission shall decide within three months following the notification provided for in point (a) of paragraph 4. That period shall begin on the day following the receipt of a complete notification. The notification shall be considered as complete if, within one month from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.

Where the Commission considers the notification as incomplete, it shall request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.

Where the Member State concerned does not provide the information requested within the period fixed by the Commission or provides incomplete information, the Commission shall take a decision that the measures taken by the Member State in accordance with paragraph 3 are incompatible with Union law. If the Commission decides that the measures are incompatible with Union law, the Member State in question shall refrain from taking the intended measures.

(ca) paragraph 6 is replaced by the following:

6. Member States shall, by appropriate means, ensure, within the framework of their legislation, that media service providers under their jurisdiction effectively comply with the provisions of
this Directive.

(d) paragraph 7 is replaced by the following:

7. Member States shall encourage co-regulation and self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. Those codes shall be such that they are broadly accepted by the main stakeholders in the Member States concerned. The codes of conduct shall clearly and unambiguously set out their objectives. They shall provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at. They shall provide for effective enforcement, including when appropriate effective and proportionate sanctions.

Draft Union codes of conduct referred to in Articles 6a(3), 9(2) and 9(4) and amendments or extensions to existing Union codes of conduct shall be submitted to the Commission by the signatories of these codes.

The Commission may ask ERGA to give an opinion on the drafts, amendments or extensions of those codes. The Commission may publish those codes as

The Commission and the Member States shall encourage and facilitate self-regulation and co-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems. Those codes shall be broadly accepted by stakeholders acting under the jurisdiction of the Member States concerned. The codes of conduct shall clearly and unambiguously set out their objectives. Regulatory authorities and/or bodies shall provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at in those codes. The codes of conduct shall provide for effective and transparent enforcement by the regulatory authorities and/or bodies, including effective and proportionate sanctions.

The ERGA shall encourage media service providers to exchange best practices on co-regulatory systems across the Union.

In cooperation with the Member States, the Commission shall facilitate the development of Union codes of conduct, where appropriate, in accordance with the principles of subsidiarity and proportionality and in consultation with the contact committee, the ERGA and media service providers taking identified best practices into account. Draft Union codes of conduct and amendments or extensions to existing Union codes of conduct shall be submitted to the Commission by the signatories of these codes. The Commission shall ensure appropriate publicity for those codes in order to promote the exchange of best practices.

The ERGA shall regularly monitor, and provide the Commission and the contact committee with a regular, transparent and independent evaluation of, the
appropriate.

achievement of the objectives aimed at in those Union codes of conduct.

(da) the following paragraph is added after paragraph 7:

(7a) If a national independent regulatory body and/or authority concludes that any code of conduct or parts thereof have proven not to be sufficiently effective, the Member State of the regulatory body and/or authority in question remains free to require media service providers under its jurisdiction to comply with more detailed or stricter rules in compliance with this Directive and Union law and with respect for the freedom of expression and information, and media pluralism. Such rules shall be reported to the Commission without undue delay.

(db) paragraph 8 is replaced by the following:

8. Directive 2000/31/EC shall apply unless otherwise provided for in this Directive. In the event of a conflict between a provision of Directive 2000/31/EC and a provision of this Directive, the provisions of this Directive shall prevail, unless otherwise provided for in this Directive.’

Amendment 56

Proposal for a directive
Article 1 – paragraph 1 – point 7
Directive 2010/13/EU
Article 5

Text proposed by the Commission

(7) in Article 5, point (d) is replaced by the following:

Amendment

(7) Article 5 is replaced by the following:

‘Article 5

Member States shall ensure that a media service provider under their jurisdiction makes at least the following information easily, directly and permanently accessible
to the recipients of a service:
(a) its name;
(b) the geographical address at which it is established;
(c) the details, including its email address or website, which allow it to be contacted rapidly in a direct and effective manner;
(d) the Member State having jurisdiction over it and the competent regulatory authorities and/or bodies or supervisory bodies.'

Amendment 57

Proposal for a directive
Article 1 – paragraph 1 – point 8
Directive 2010/13/EU
Article 6

Text proposed by the Commission

Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.'

Amendment

Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any of the following:

(a) incitement to undermine human dignity;
(b) incitement to violence or hatred directed against a person or a group of persons defined by reference to nationality, sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health;
(c) incitement to terrorism.'
Amendment 58

Proposal for a directive
Article 1 – paragraph 1 – point 9
Directive 2010/13/EU
Article 6 a (new)

Text proposed by the Commission

(9) the following Article 6a is inserted:

‘Article 6a

1. Member States shall take appropriate, proportionate and efficient measures to ensure that audiovisual media services provided by media service providers under their jurisdiction, which 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. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme, shall not lead to any additional processing of personal data and shall be without prejudice to Article 8 of Regulation (EU) 2016/679 of the European Parliament and the Council 1a.

The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures.

2. Member States shall ensure that media service providers provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, Member States may use a system of descriptors indicating the nature of the content of an audiovisual media service.

2a. Member States shall ensure that the measures taken to protect minors from audiovisual media services provided by media service providers under their

Amendment

(9) the following Article 6a is inserted:

‘Article 6a

1. Member States shall take appropriate, proportionate and efficient measures to ensure that audiovisual media services provided by media service providers under their jurisdiction, which 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. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme, shall not lead to any additional processing of personal data and shall be without prejudice to Article 8 of Regulation (EU) 2016/679 of the European Parliament and the Council 1a.

The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures.

2. Member States shall ensure that media service providers provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, Member States may use a system of descriptors indicating the nature of the content of an audiovisual media service.

2a. Member States shall ensure that the measures taken to protect minors from audiovisual media services provided by media service providers under their
2. For the implementation of this Article, Member States shall encourage co-regulation.

3. The Commission and ERGA shall encourage media service providers to exchange best practices on co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.

4. For the implementation of this Article, Member States shall encourage self-regulation and co-regulation.

5. The Commission and the ERGA shall encourage media service providers to exchange best practices on self-regulation and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.

 Amendment 59

Proposal for a directive
Article 1 – paragraph 1 – point 10
Directive 2010/13/EU
Article 7

Text proposed by the Commission

(10) Article 7 is deleted;

Amendment

(10) Article 7 is replaced by the following:

‘Article 7

1. Member States shall, without undue delay, develop measures to ensure that services provided by media service providers under their jurisdiction are made continuously and progressively more accessible to persons with disabilities. Those measures shall be developed in consultation with relevant
stakeholders, including media service providers and organisations of persons with disabilities.

2. The measures referred to in paragraph 1 shall include a requirement that media service providers report on an annual basis to Member States about the steps taken and progress made in respect of progressively making their services more accessible to persons with disabilities. Member States shall report to the Commission on the steps taken by media service providers under their jurisdiction.

3. The measures referred to in paragraph 1 shall encourage media service providers to develop, in cooperation with the representatives of organisations of persons with disabilities and regulatory bodies, accessibility action plans in respect of continuously and progressively making their services more accessible to persons with disabilities. Such action plans shall be developed without undue delay and communicated to national regulatory authorities and/or bodies.

4. The measures developed pursuant to paragraph 1 shall be notified to the Commission, the contact committee and the ERGA without undue delay. The Commission and the ERGA shall facilitate the exchange of best practices between media service providers.

5. Member States shall ensure that emergency information, including public communications and announcements in natural disaster situations, which is made available to the public through audiovisual media services, is provided in a manner which is accessible to persons with disabilities, including subtitles for the deaf and hard of hearing, audio messages and audio descriptions for any visual information and, where practicable, sign language interpretation.

6. Member States shall ensure that
media service providers aim, through their content acquisition, programming and editorial policies, to deliver access services as part of content producers’ packages.

7. Member States shall encourage media service providers to enable consumers to find and watch accessible content, and to make their websites, media-players, online applications and mobile-based services, including mobile apps, used for the provision of the service, more accessible in a consistent and adequate way so that users can perceive, operate and understand them, and in a robust way that facilitates interoperability with a variety of user agents and assistive technologies available at Union and international level.’

Amendment 60

Proposal for a directive
Article 1 – paragraph 1 – point 10 a (new)
Directive 2010/13/EU
Article 7 a (new)

Text proposed by the Commission

(10a) The following Article 7a is inserted:

‘Article 7a

Member States remain free to impose obligations to ensure the appropriate prominence of audiovisual media services of general interest.

The imposition of such obligations shall be proportionate and meet objectives of general interest, such as media pluralism, freedom of speech, cultural diversity and gender equality, which shall be clearly defined by Member States in accordance with Union law.’
Amendment 61
Proposal for a directive
Article 1 – paragraph 1 – point 10 b (new)
Directive 2010/13/EU
Article 7 b (new)

Text proposed by the Commission

(10b) The following Article 7b is inserted:

‘Article 7b
Member States shall ensure that the
programmes and services of media service
providers are not modified or overlayed
without their explicit consent with the
exception of services initiated by the
recipient of a service for private use.’

Amendment 62
Proposal for a directive
Article 1 – paragraph 1 – point 10 c (new)
Directive 2010/13/EU
Article 8 – paragraph 1

Present text

(10c) in Article 8, paragraph 1 is replaced
by the following::

‘Member States shall ensure that media
service providers and video-sharing
platform providers under their jurisdiction
do not transmit cinematographic works
outside periods agreed with the rights
holders.’

Amendment 63
Proposal for a directive
Article 1 – paragraph 1 – point 11
Directive 2010/13/EU
Article 9

Text proposed by the Commission

(11) Article 9 is amended as follows:

(11) Article 9 is replaced by the
following:
1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements:

(a) audiovisual commercial communications shall be readily recognisable as such. *Surreptitious* audiovisual commercial communication shall be prohibited;

(b) audiovisual commercial communications shall not use subliminal techniques;

(c) audiovisual commercial communications shall not:
   (i) prejudice respect for human dignity;
   (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
   (iii) encourage behaviour prejudicial to health or safety;
   (iv) encourage behaviour *grossly* prejudicial to the protection of the environment;

(d) all forms of audiovisual commercial communications for cigarettes and other tobacco products shall be prohibited;

(e) audiovisual commercial communications for alcoholic beverages shall not be aimed *specifically* at minors and shall not encourage immoderate consumption of such beverages;

(f) audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited;

(g) audiovisual commercial communications for alcoholic beverages shall not be aimed at minors and shall not encourage immoderate consumption of such beverages;

(-a) paragraph 1 is replaced by the following:

1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements:

(a) audiovisual commercial communications shall be readily recognisable as such *and distinguishable from editorial content; surreptitious* audiovisual commercial communication shall be prohibited;

(b) audiovisual commercial communications shall not use subliminal techniques;

(c) audiovisual commercial communications shall not:
   (i) prejudice respect for human dignity;
   (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
   (iii) encourage behaviour prejudicial to health or safety;
   (iv) encourage behaviour prejudicial to the protection of the environment;

(d) all forms of audiovisual commercial communications for cigarettes and other tobacco products shall be prohibited;

(e) audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages;

(f) audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited;

(g) audiovisual commercial communications for alcoholic beverages shall not be aimed at minors and shall not encourage immoderate consumption of such beverages;
communications shall not cause physical or moral detriment to minors. Therefore they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.

(a) paragraph 2 is replaced by the following:

2. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications, accompanying or included in programmes with a significant children’s audience, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, excessive intakes of which in the overall diet are not recommended, in particular fat, trans-fatty acids, salt or sodium and sugars.

(b) the following paragraphs 3 and 4 are inserted:

3. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes should be used to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic beverages.
4. The Commission and ERGA shall **encourage** the exchange of best practices on self- and co-regulatory systems across the Union. *If considered appropriate*, the Commission shall facilitate the development of Union codes of conduct.

4. The Commission and the ERGA shall **ensure** the exchange of best practices on self- and co-regulatory systems across the Union. *Where necessary*, the Commission and the ERGA shall facilitate, *in cooperation with the Member States*, the development, *promotion and adoption* of Union codes of conduct.

Amendment 64

**Proposal for a directive**

**Article 1 – paragraph 1 – point 12**

Directive 2010/13/EU

**Article 10**

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<thead>
<tr>
<th><strong>Text proposed by the Commission</strong></th>
<th><strong>Amendment</strong></th>
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<tr>
<td>(12) <strong>in</strong> Article 10, <strong>point (b)</strong> is replaced by the following:</td>
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<td><em>(b) they shall not directly encourage the purchase or rental of goods or services;</em></td>
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<td><em>(c) viewers shall be clearly informed of the existence of a sponsorship agreement; sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the</em></td>
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beginning, during and/or at the end of the programmes.

2. Audiovisual media services or programmes shall not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes, electronic cigarettes and other tobacco products.

3. The sponsorship of audiovisual media services or programmes by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking, but shall not promote specific medicinal products or medical treatments available only on prescription in the Member State within whose jurisdiction the media service provider falls.

4. News and current affairs programmes shall not be sponsored. Member States may prohibit the sponsorship of children’s programmes or content aimed primarily at children.

Amendment 65

Proposal for a directive
Article 1 – paragraph 1 – point 13
Directive 2010/13/EU
Article 11

*Text proposed by the Commission*

1. *Paragraphs 2, 3 and 4* shall apply only to programmes produced after 19 December 2009.

2. Product placement shall be admissible in all audiovisual media services, except in news and current affairs programmes, consumer affairs programmes, religious programmes and programmes with a significant children’s audience.

3. Programmes that contain product

*Amendment*

1. *This Article* shall apply only to programmes produced after 19 December 2009.

2. Product placement shall be admissible in all audiovisual media services, except in news and current affairs programmes, consumer affairs programmes, religious programmes and children’s programmes or content aimed primarily at children.

3. Programmes that contain product
placement shall meet the following requirements:

(a) their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

(b) they shall not directly encourage the purchase or rental of goods or services;

(c) viewers shall be clearly informed of the existence of product placement.

Programmes containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer;

By way of exception, Member States may choose to waive the requirements set out in point (c) provided that the programme concerned has neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider.

4. In any event programmes shall not contain product placement of:

(a) tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products;

(b) specific medicinal products or medical treatments available only on prescription in the Member State under whose jurisdiction the media service provider falls.’

Amendment 66
Proposal for a directive
Article 1 – paragraph 1 – point 14

placement shall meet the following requirements:

(a) their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

(b) they shall not directly encourage the purchase or rental of goods or services;

(c) viewers shall be clearly informed of the existence of product placement.

Programmes containing product placement shall be appropriately identified at the start and the end of the programme.

By way of exception, Member States may choose to waive the requirements set out in point (c) provided that the programme concerned has neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider.

4. In any event programmes shall not contain product placement of:

(a) tobacco products, cigarettes or electronic cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes, electronic cigarettes or other tobacco products;

(b) specific medicinal products or medical treatments available only on prescription in the Member State under whose jurisdiction the media service provider falls.’
Article 12

Text proposed by the Commission

(14) Article 12 is replaced by the following and moved to Chapter III:

Article 12

Member States shall take appropriate measures to ensure that programmes provided by audiovisual media service providers under their jurisdiction, which 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. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme.

The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures, such as encryption and effective parental controls.

Justification

See Article -2, Am. 32.

Amendment 67

Proposal for a directive
Article 1 – paragraph 1 – point 15
Directive 2010/13/EU
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that providers of on-demand audiovisual media services under their jurisdiction secure at least a 20% share of European works in their catalogue and ensure prominence of these works.

Amendment

1. Member States shall ensure that providers of on-demand audiovisual media services under their jurisdiction secure at least a 30% share of European works in their catalogue and ensure prominence of these works. That share shall include works in the official languages of the
Amendment 68

Proposal for a directive
Article 1 – paragraph 1 – point 15
Directive 2010/13/EU
Article 13 – paragraph 2

Text proposed by the Commission

2. Member States may require providers of on-demand audiovisual media services under their jurisdiction to contribute financially to the production of European works, including via direct investment in content and contributions to national funds. Member States may require providers of on-demand audiovisual media services, targeting audiences in their territories, but established in other Member States to make such financial contributions. In this case, the financial contribution shall be based only on the revenues earned in the targeted Member States. If the Member State where the provider is established imposes a financial contribution, it shall take into account any financial contributions imposed by targeted Member States. Any financial contribution shall comply with Union law, in particular with State aid rules.

Amendment

2. Member States may require 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. Member States may require providers of on-demand audiovisual media services, targeting audiences in their territories, but not established therein, to make such financial contributions. In this case, the financial contribution shall be based only on the on-demand revenues earned in the targeted Member States. If the Member State where the provider is established imposes a financial contribution, it shall take into account any financial contributions imposed by targeted Member States. Any financial contribution shall comply with Union law, in particular with State aid rules.

Amendment 69

Proposal for a directive
Article 1 – paragraph 1 – point 15
Directive 2010/13/EU
Article 13 – paragraph 5

Text proposed by the Commission

5. Member States shall waive the requirements laid down in paragraphs 1 and 2 for providers with a low turnover or

Amendment

5. Member States shall waive the requirements laid down in paragraphs 1 and 2 for providers with a low turnover or
low audience or if they are small and micro enterprises. Member States may also waive such requirements in cases where they would be impracticable or unjustified by reason of the nature or theme of the on-demand audiovisual media services.

**Amendment 70**

Proposal for a directive
Article 1 – paragraph 1 – point 15 a (new)
Directive 2010/13/EU
Article 19 – paragraph 1

Present text

1. Television advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept quite distinct from other parts of the programme by optical and/or acoustic and/or spatial means.

Amendment

(15a) In Article 19, paragraph 1 is replaced by the following:

‘1. Television advertising and teleshopping shall be readily recognisable and distinguishable from editorial content. Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be kept clearly distinct from other parts of the programme by optical and/or acoustic and/or spatial means.’

(This amendment seeks to amend a provision within the existing act - Article 19, paragraph 1 - that was not referred to in the Commission proposal.)

**Amendment 71**

Proposal for a directive
Article 1 – paragraph 1 – point 15 b (new)
Directive 2010/13/EU
Article 19 – paragraph 2

Present text

2. Isolated advertising and teleshopping spots, other than in transmissions of sports events, shall remain the exception.

Amendment

(15b) In Article 19, paragraph 2 is replaced by the following:

‘2. Isolated advertising and teleshopping spots shall be admissible in sports events. Apart from sport events, isolated advertising and teleshopping spots shall be admissible subject to the conditions set
(This amendment seeks to amend a provision within the existing act - Article 19, paragraph 2 - that was not referred to in the Commission proposal.)

Amendment 72
Proposal for a directive
Article 1 – paragraph 1 – point 16
Directive 2010/13/EU
Article 20 – paragraph 2

Text proposed by the Commission
(16) In Article 20, paragraph 2, **the first sentence** is replaced by the following:

The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least **20** minutes.

Amendment
(16) Article 20, paragraph 2, is replaced by the following

The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least **30** minutes. **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. No television advertising or teleshopping shall be inserted during religious services.**

Amendment 73
Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2010/13/EU
Article 23 – paragraph 1

Text proposed by the Commission
1. The daily proportion of television advertising spots and teleshopping spots **within the period between 7:00 and 23:00** shall not exceed 20 %.

Amendment
1. The daily proportion of television advertising spots and teleshopping spots shall not exceed 20 %. **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 %.

Amendment 74

Proposal for a directive
Article 1 – paragraph 1 – point 17
Directive 2010/13/EU
Article 23 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply to:
   (a) announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes or with programmes from other entities belonging to the same media group;

   (b) sponsorship announcements;

   (c) product placements;

Amendment

2. Paragraph 1 shall not apply to:
   (a) self-promotional and cross-promotional announcements made by the broadcaster in connection with its own programmes and ancillary products and audiovisual media services directly derived from those programmes or with programmes, product and services from entities belonging to the same broadcasting group;

   (b) sponsorship announcements;

   (c) product placements;

   (ca) public service announcements and charity appeals;

   (cb) neutral frames used to distinguish between editorial content and audiovisual commercial communications, and between audiovisual commercial communications;

Amendment 75

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28 a
1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, Member States shall ensure that video-sharing platform providers take appropriate measures to:

(a) protect minors from content which may impair their physical, mental or moral development;

(b) protect all citizens from content containing incitement to undermine human dignity, or content containing incitement to violence or hatred directed against a person or a group of persons defined by reference to nationality, sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health;

2. Those measures shall consist of, as appropriate:

(a) defining and applying in the terms and conditions of the video-sharing platform providers the concepts of incitement to violence or hatred as referred to in point (b) of paragraph 1 and of content which may impair the physical, mental or moral development of minors, in accordance with Articles 6 and 12 respectively;

(b) establishing and operating mechanisms for users of video-sharing
platforms to report or flag to the video-sharing platform provider concerned the content referred to in paragraph 1 stored on its platform;

(c) establishing and operating age verification systems for users of video-sharing platforms with respect to content which may impair the physical, mental or moral development of minors;

(d) establishing and operating systems allowing users of video-sharing platforms to rate the content referred to in paragraph 1;

(e) providing for parental control systems with respect to content which may impair the physical, mental or moral development of minors;

(f) establishing and operating systems through which providers of video-sharing platforms explain to users of video-sharing platforms what effect has been given to the reporting and flagging referred to in point (b).

What constitutes an appropriate measure for the purposes of paragraph 1 shall be determined in light of the nature of the content in question, the harm it may cause, the characteristics of the category of for users of video-sharing platforms to report or flag to the video-sharing platform provider concerned the content referred to in paragraph 1 hosted on its platform;

(ba) establishing and operating systems through which providers of video-sharing platforms explain to users of video-sharing platforms what effect has been given to the reporting and flagging referred to in point (b);

(c) establishing and operating age verification systems for users of video-sharing platforms with respect to content which may impair the physical mental or moral development of minors; such systems shall not lead to any additional processing of personal data and shall be without prejudice to Article 8 of Regulation (EU) 2016/679;

(d) establishing and operating easy-to-use systems allowing users of video-sharing platforms to rate the content referred to in paragraph 1;

(e) providing for parental control systems that are under the control of the end-user and proportionate to the measures referred to in this paragraph and paragraph 3 with respect to content which may impair the physical, mental or moral development of minors; the regulatory authorities and/or bodies shall provide the necessary guidelines to ensure that the measures taken respect the freedom of expression and include a requirement to inform users;

(f) establishing and operating transparent, easy-to-use and effective procedures for the handling and resolution of disputes between the video-sharing platform provider and its users in relation to the implementation of the measures referred to in points (b) to (f).

2a. What constitutes an appropriate measure for the purposes of paragraph 1 shall be determined in light of the nature of the content in question, the harm it may cause, the characteristics of the category of
persons to be protected as well as the rights and legitimate interests at stake, including those of the video-sharing platform providers and the users having created and/or uploaded the content as well as the public interest. Appropriate measures shall respect the freedom of expression and information, and media pluralism. The most harmful content shall be subject to the strictest measures. Such measures shall not lead to any ex-ante control measures or upload-filtering of content.

3. For the purposes of the implementation of the measures referred to in paragraphs 1 and 2, Member States shall encourage co-regulation as provided for in Article 4(7).

3. For the purposes of the implementation of the measures referred to in paragraphs 1 and 2, Member States and the Commission shall encourage and facilitate self-regulation and co-regulation as provided for in Article 4(7) and (7a) ensuring that codes of conduct comply with the provisions of this Directive and fully respect the rights, freedoms and principles set out in the Charter, in particular Article 52 thereof. Member States shall ensure that video-sharing platform providers conduct and publish regular audits of their performance in accordance with the measures referred to in paragraph 1.

4. Member States shall establish the necessary mechanisms to assess the appropriateness of the measures referred to in paragraphs 2 and 3 taken by video-sharing platform providers. Member States shall entrust this task to the authorities designated in accordance with Article 30. Member States shall establish the necessary mechanisms to assess and report on the delivery and effectiveness of the measures taken, taking into account their legality, transparency, necessity, effectiveness and proportionality. Member States shall entrust this task to the authorities designated in accordance with Article 30. The regulatory authorities and/or bodies shall provide the necessary guidelines to ensure that the measures taken respect the freedom of expression, and include a requirement to inform users.

5. Member States shall not impose on video-sharing platform providers measures that are stricter than the measures referred to in paragraph 1 and 2. Member States shall not be precluded from imposing stricter measures with

5. Article 8 shall apply to video-sharing platform providers.
respect to illegal content. When adopting such measures, they shall respect the conditions set by applicable Union law, such as, where appropriate, those set in Articles 14 and 15 of Directive 2000/31/EC or Article 25 of Directive 2011/93/EU.

5a. Member States shall provide that sponsorship or audiovisual commercial communications that are marketed, sold, or arranged by video-sharing platform providers comply with the requirements of Articles 9 and 10.

Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, Member States shall provide that video-sharing platforms require users who upload content to declare whether such content contains advertisements, sponsored content or product placement.

Member States shall require video-sharing platforms to provide that service recipients be clearly informed of declared or known content including advertisements, sponsored content or product placement.

6. Member States shall ensure that complaint and redress mechanisms are available for the settlement of disputes between users and video-sharing platform providers relating to the application of the appropriate measures referred to in paragraphs 1 and 2.

7. The Commission and ERGA shall encourage video-sharing platform providers to exchange best practices on co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.

8. Video-sharing platform providers or, where applicable, the organisations representing those providers in this respect shall submit to the Commission draft Union codes of conduct and amendments to existing Union codes of conduct. The Commission may request ERGA to give an

7. The Commission and the ERGA shall encourage video-sharing platform providers to exchange best practices on self-regulatory and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.

8. Video-sharing platform providers or, where applicable, the organisations representing those providers in this respect shall submit to the Commission draft Union codes of conduct and amendments to existing Union codes of conduct. The Commission may request the ERGA to
opinion on the drafts, amendments or extensions of those codes of conduct. The Commission may give appropriate publicity to those codes of conduct.

give an opinion on the drafts, amendments or extensions of those codes of conduct. The Commission shall publish those codes in order to promote the exchange of best practices.

Amendment 76

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28 b – paragraph 2

Text proposed by the Commission

2. Member States shall communicate to the Commission a list of the video-sharing platform providers established on their territory and the criteria, set out in Article 3(1) of Directive 2000/31/EC and in paragraph 1, on which their jurisdiction is based. They shall update the list regularly. The Commission shall ensure that the competent independent regulatory authorities have access to this information.

Amendment

2. Member States shall communicate to the Commission a list of the video-sharing platform providers established or deemed to be established on their territory in accordance with the criteria set out in paragraph 1, on which their jurisdiction is based. They shall update the list regularly. The Commission shall ensure that the competent independent regulatory authorities and/or bodies and the public have easy and effective access to this information.

Amendment 77

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28 b – paragraph 2 a (new)

Text proposed by the Commission

2a. Where, in applying paragraph 1, the Member States concerned do not agree on which Member State has jurisdiction, they shall bring the matter to the Commission's attention without undue delay. The Commission may request the ERGA to provide an opinion on the matter within 15 working days from the submission of the Commission's request.
Justification

As video-sharing platforms usually target audiences in the entire Union, there could be disagreements between the Member States in the determination of the competent Member States for the purpose of this Directive. Therefore the Commission should be able to act to determine the Member State having jurisdiction, as it does for the other audiovisual media services under Article 3.

Amendment 78

Proposal for a directive
Article 1 – paragraph 1 – point 19 a (new)
Directive 2010/13/EU
Article 28 c (new)

Text proposed by the Commission

Amendment

(19a) the following Article 28 c is inserted:

‘Article 28c
Member States shall ensure that a video-sharing platform provider under their jurisdiction make at least the following information easily, directly and permanently accessible to the user:

(a) its name;
(b) the geographical address at which it is established;
(c) the details, including its email address or website, which allow it to be contacted rapidly in a direct and effective manner;
(d) the Member State having jurisdiction over it and the competent regulatory authorities and/or bodies or supervisory bodies.’

Amendment 79

Proposal for a directive
Article 1 – paragraph 1 – point 19 b (new)
Directive 2010/13/EU
Article 29
Article 29

1. A contact committee is established under the aegis of the Commission. It shall be composed of representatives of the competent authorities of the Member States. It shall be chaired by a representative of the Commission and meet either on his initiative or at the request of the delegation of a Member State.

2. The tasks of the contact committee shall be:

(a) to facilitate effective implementation of this Directive through regular consultation on any practical problems arising from its application, and particularly from the application of Article 2, as well as on any other matters on which exchanges of views are deemed useful;

(b) to deliver own-initiative opinions or opinions requested by the Commission on the application by the Member States of this Directive;

(c) to be the forum for an exchange of views on what matters should be dealt with in the reports which Member States must submit pursuant to Article 16(3) and on their methodology;

(d) to discuss the outcome of regular consultations which the Commission holds with representatives of broadcasting organisations, producers, consumers, manufacturers, service providers and trade unions and the creative community;

(e) to facilitate the exchange of information between the Member States and the Commission on the situation and the development of regulatory activities.

(19b) Article 29 is amended as follows:

Article 29

1. A contact committee is established under the aegis of the Commission. It shall be composed of representatives of the competent authorities of the Member States and four Members of the European Parliament as observers nominated every three years. It shall be chaired by a representative of the Commission and meet either on his initiative or at the request of the delegation of a Member State. Gender parity in the composition of the contact committee shall be encouraged.

2. The tasks of the contact committee shall be:

(a) to facilitate effective implementation of this Directive through regular consultation on any practical problems arising from its application, and particularly from the application of Article 2, as well as on any other matters on which exchanges of views are deemed useful;

(b) to deliver own-initiative opinions or opinions requested by the Commission on the application by the Member States of this Directive;

(c) to be the forum for an exchange of views on what matters should be dealt with in the reports which Member States must submit pursuant to Article 16(3) and on their methodology;

(d) to discuss the outcome of regular consultations which the Commission holds with representatives of broadcasting organisations, producers, consumers, manufacturers, service providers and trade unions and the creative community;

(e) to facilitate the exchange of information between the Member States and the Commission on the situation and the development of regulatory activities.
regarding audiovisual media services, taking account of the Union's audiovisual policy, as well as relevant developments in the technical field;

(f) to examine any development arising in the sector on which an exchange of views appears useful.’

(This amendment seeks to amend a provision within the existing act - Article 29 - that was not referred to in the Commission proposal.)

Amendment 80

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30

Text proposed by the Commission

‘Article 30

1. Each Member State shall designate one or more independent national regulatory authorities. Member States shall ensure that they are legally distinct and functionally independent of any other public or private body. This shall be without prejudice to the possibility for Member States to set up regulators having oversight over different sectors.

2. Member States shall ensure that national regulatory authorities exercise their powers impartially and transparently and in accordance with the objectives of this Directive, in particular media pluralism, cultural diversity, consumer protection, internal market and the promotion of fair competition.

Amendment

‘Article 30

1. Each Member State shall designate one or more independent national regulatory authorities and/or bodies. Member States shall ensure that they are functionally and effectively independent of their respective governments and of any other public or private body. This shall be without prejudice to the possibility for Member States to set up regulators having oversight over different sectors.

2. Member States shall ensure that national regulatory authorities and/or bodies exercise their powers impartially and transparently and in accordance with the objectives of this Directive, in particular media pluralism, cultural and linguistic diversity, consumer protection, accessibility, non-discrimination, internal market and the promotion of fair competition. Member States shall ensure that national regulatory authorities and/or bodies exercise no ex ante influence over editorial decisions, editorial choices or layouts. Their tasks shall be limited to monitoring the
National regulatory authorities shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law. This shall not prevent supervision in accordance with national constitutional law.

3. The competences and powers of the independent regulatory authorities, as well as the ways of making them accountable shall be clearly defined in law.

4. Member States shall ensure that national regulatory authorities have adequate enforcement powers to carry out their functions effectively.

4a. Member States shall ensure that national regulatory authorities and/or bodies designate a single and publicly available point of contact for information and complaints about the accessibility issues referred to in Article 7.

5. The Head of a national regulatory authority or the members of the collegiate body fulfilling that function within a national regulatory authority, may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. A dismissal decision shall be made public and a statement of reasons shall be made available.

5. Member States shall lay down in national law the conditions and the procedures for the appointment and dismissal of the head of a national regulatory authority and/or body or the members of the collegiate body fulfilling that function, including the duration of the mandate. Alterations before the termination of the mandate shall be duly justified, subject to prior notification and made available to the public. The procedures shall be transparent, non-discriminatory and guarantee the requisite degree of independence.

6. Member States shall ensure that independent national regulatory authorities have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to carry out the task assigned to them and to contribute to the ERGA. The budgets shall be made public.
actively participate in and contribute to ERGA.

7. Member States shall ensure that effective mechanisms exist at national level under which any user or media services provider or video-sharing platform provider who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body. The appeal body shall be independent of the parties involved in the appeal.

That appeal body, which should be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.

Pending the outcome of the appeal, the decision of the national regulatory authority shall stand, unless interim measures are granted in accordance with national law.

Amendment 81

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30 a

Text proposed by the Commission

‘Article 30a

1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established.

2. It shall be composed of national independent regulatory authorities in the field of audiovisual media services. They shall be represented by the heads or by nominated high level representatives of the national regulatory authority with primary

Amendment

‘Article 30a

1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established.

2. It shall be composed of national regulatory authorities and/or bodies, which may include those regional independent regulatory authorities and bodies that have full competence in the field of audiovisual media services. They shall be
responsibility for overseeing audiovisual media services, or in cases where there is no national regulatory authority, by other representatives as chosen through their procedures. A Commission representative shall participate in the group meetings.

3. **ERGA's** shall have the following tasks:

(a) to advise and assist the Commission in its work to ensure a consistent implementation in all Member States of the regulatory framework for audiovisual media services;

(b) to advise and assist the Commission as to any matter related to audiovisual media services within the Commission's competence. If justified in order to advise the Commission on certain issues, the group may consult market participants, consumers and end-users in order to collect the necessary information;

(c) to provide for an exchange of experience and good practice as to the application of the regulatory framework for audiovisual media services;

(d) to cooperate and provide its members with the information necessary for the application of this Directive, in particular as regards Articles 3 and 4 thereof;

(e) to give opinions, when requested by the Commission, on the issues envisaged in Articles 2(5b), 6a(3), 9(2), 9(4) and on any matter relating to audiovisual media services, in particular on the protection of minors and incitement to hatred.

4. The Commission shall be empowered to adopt, by means of an implementing act, the rules of procedure for ERGA."

represented by the heads or by nominated high level representatives of the national regulatory authority with primary responsibility for overseeing audiovisual media services, or in cases where there is no national regulatory authority **and/or body**, by other representatives as chosen through their procedures. A Commission representative shall participate in the group meetings.

3. **The ERGA** shall have the following tasks:

(a) to advise and assist the Commission at its request in its task to ensure a consistent implementation of this Directive in all Member States;

(b) to advise and assist the Commission at its request on matters related to audiovisual media services within its competence;

(c) to provide for an exchange of experience and good practice as to the application of the regulatory framework for audiovisual media services;

(d) to cooperate and provide its members and the contact committee with the information necessary for the application of this Directive, in particular as regards Articles 3, 4 and 7 thereof;

(e) to give opinions, when requested by the Commission, on the issues envisaged in Articles 2(5b), 6a(3), 9(2), 9(4) and on any matter relating to audiovisual media services, in particular on the protection of minors and incitement to hatred.

4. The Commission shall be empowered to adopt, by means of an implementing act, the rules of procedure for the ERGA.

4a. **The ERGA shall have adequate financial and human resources to carry out its tasks. Regulatory authorities**
Amendment 82

Proposal for a directive
Article 1 – paragraph 1 – point 23
Directive 2010/13/EU
Article 33 – paragraph 2

Text proposed by the Commission

By [date – no later than four years after adoption] at the latest, and every three years thereafter, the Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a report on the application of this Directive.

Amendment

By [date – no later than three years after adoption] at the latest, and every three years thereafter, the Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to the developments in the field of audiovisual media services, in particular in the light of recent technological developments, the competitiveness of the sector as well as a report on practices, policies and accompanying measures supported by Member States in the field of media literacy.