REPORT


Committee on Culture and Education

Rapporteurs: Sabine Verheyen, Petra Kammerevert
Symbols for procedures

- Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in *bold italics* in the left-hand column. Replacements are indicated in *bold italics* in both columns. New text is indicated in *bold italics* in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in *bold italics*. Deletions are indicated using either the `▌` symbol or strikeout. Replacements are indicated by highlighting the new text in *bold italics* and by deleting or striking out the text that has been replaced. By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION</td>
<td>5</td>
</tr>
<tr>
<td>EXPLANATORY STATEMENT</td>
<td>75</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY</td>
<td>79</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION</td>
<td>102</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON LEGAL AFFAIRS</td>
<td>160</td>
</tr>
<tr>
<td>OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS</td>
<td>196</td>
</tr>
<tr>
<td>PROCEDURE – COMMITTEE RESPONSIBLE</td>
<td>236</td>
</tr>
<tr>
<td>FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE</td>
<td>237</td>
</tr>
</tbody>
</table>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2016)0287),
– having regard to Article 294(2) and Articles 53(1) and 62 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0193/2016),
– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
– having regard to the opinion of the European Economic and Social Committee of …
– having regard to the opinion of the Committee of Regions of 7 December 2016,
– having regard to Rule 59 of its Rules of Procedure,
– having regard to the report of the Committee on Culture and Education and the opinions of the Committee on Environment, Public Health and Food Safety, the Committee on Internal Market and Consumer Protection, the Committee on Legal Affairs, and the Committee on Civil Liberties, Justice and Home Affairs (A8-0192/2017),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Title 1

Text proposed by the Commission Amendment

Proposal for a Proposal for a

1 OJ C 0, 0.0.0000, p. 0.
2 OJ C 0, 0.0.0000, p. 0.
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 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\textsuperscript{27}, later codified by Directive 2010/13/EU of the European Parliament and of the Council\textsuperscript{28}, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council\textsuperscript{29}. 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.

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)

(1) The last substantive amendment to Directive 89/552/EEC of the Council\textsuperscript{27}, later codified by Directive 2010/13/EU of the European Parliament and of the Council\textsuperscript{28}, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council\textsuperscript{29}. Since then, the market of audiovisual media services has evolved significantly and rapidly due to the ongoing convergence of television and internet services. 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.


Amendment

Proposal for a directive

Recital 2

Text proposed by the Commission


Amendment

March 2014 in its resolution "Preparing for a Fully Converged Audiovisual World"\textsuperscript{30c} and indicated the objectives of that review.

\textsuperscript{30} COM(2015) 192 final
\textsuperscript{30a} P8_TA(2016)0009
\textsuperscript{30b} P7_TA(2013)0329
\textsuperscript{30c} P7_TA(2014)0232

Amendment 4
Proposal for a directive
Recital 3

\textit{Text proposed by the Commission}

(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

\textit{Amendment}

(3) Directive 2010/13/EU should be 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. As social media platform services rely increasingly on audiovisual content, they are relevant for the purposes of Directive 2010/13/EU in so far as they provide services that meet the criteria defining 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. In such cases, it will be up to the providers with editorial responsibility to abide by the provisions of this Directive. Games of chance involving a stake representing a sum of money,
will be up to the providers with editorial responsibility to abide by the provisions of this Directive.

including lotteries, betting and other forms of gambling as well as on-line games and search engines, should continue to be excluded from the scope of Directive 2010/13/EU.

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, 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 the Commission. Those records should include information about the criteria on which jurisdiction is based.

(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 reliable facts. The European Regulators Group for Audiovisual Media Services (ERGA), composed of independent regulatory authorities and/or bodies in the field of audiovisual media services, should therefore be empowered to provide opinions on jurisdiction upon the Commission’s request.

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 Group for Audiovisual Media Services (ERGA), composed of independent regulatory authorities and/or bodies in the field of audiovisual media services, should therefore be empowered to provide non-binding opinions on jurisdiction upon the Commission’s request. It is important that the ERGA and the contact committee keep each other informed and that they cooperate with regulatory authorities and/or bodies.

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-

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
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 this Directive.

---

31 COM(2015) 215 final

**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

Amendment

(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

Amendment

(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 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 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. 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

(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.

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)
(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)

Text proposed by the Commission

(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

(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
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
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)
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

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 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 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 25
Proposal for a directive
Recital 20

Text proposed by the Commission

(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.
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 with 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.

**Proposition for a directive**

**Recital 21**

(20) 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.
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 territory. In this case financial obligations should only be charged on the revenues generated through the audience in that Member State.

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 illegal, harmful, racist and xenophobic content and hate speech hosted on video-sharing platforms have
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. 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

Amendment

(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
Amendment 30
Proposal for a directive
Recital 27

Text proposed by the Commission


Amendment

(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 applicable to communications concerning e-cigarettes and refill containers pursuant to Directive 2014/40/EU of the European Parliament and of the Council, ensure that consumers are sufficiently protected and should be applied to all audiovisual media services. The measures set out in this Directive therefore complement those set out in Directives 2005/29/EC, 2003/33/EC and 2014/40/EU and establish a common level playing field for audiovisual media services, video-sharing platform services and user-generated videos.

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,

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
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 32

Proposal for a directive
Recital 29

(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 Council, 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, 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 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 restricting the making available of audiovisual content.

Text proposed by the Commission

(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 Council, 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 33

Proposal for a directive
Recital 30

Text proposed by the Commission

(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 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

Amendment

(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. Self-regulation and co-regulation should therefore be encouraged. It should remain possible for Member States to take stricter measures where 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 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
or disseminating child pornography, as required by and allowed under Article 25 of Directive 2011/93/EU of the European Parliament and the Council\(^\text{35}\). It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.


**Amendment 34**

**Proposal for a directive**

**Recital 32**

**Text proposed by the Commission**

(32) The video-sharing platform providers 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

**Amendment**

(32) Video-sharing platform providers covered by this Directive provide information society services within the meaning of point (a) of Article 2 of Directive 2000/31/EC and generally provide hosting services in accordance with Article 14 of that Directive. 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
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. That effect, arrangements should be made to determine in which Member State those providers should be deemed to have been established. **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

**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
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. 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. 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

(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.

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

(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 **discovery** 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 particular examine the need for regulatory intervention against the results of the outcome of market forces.** Where Member States decide to impose **discovery** 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 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.

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, 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

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
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

"(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

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 all of the following requirements:

(i) a main functionality of the service consists of the making available of programmes or user-generated videos, for which the video-sharing platform provider does not have editorial responsibility, to the general public;

(ii) the organisation of the content made publicly available 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 of a service that is a dissociable section of a wider service, is devoted to providing programmes and user-generated videos to the general public in order to inform, entertain or educate, or that service plays a significant role in providing programmes and user-generated videos to the general public, in order to inform, entertain or educate; and

(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 drama;”;

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 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

Amendment
(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)

Directive 2010/13/EU
Article 1 – paragraph 1 – point k

Present text

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

‘(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 services, video-sharing platform services
works, to the financing of audiovisual media services or programmes with a view to promoting their name, trade mark, image, activities or products;’
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)
Directive 2010/13/EU
Article 1 – paragraph 1 – point m

Present text

‘(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

‘(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 or a user-generated video, 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 deleted

Amendment

“(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

RR\1125609EN.docx  35/237  PE587.655v03-00
activity operates;”

Amendment 51

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a 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 up-link situated in that Member State, they use satellite capacity appertaining to that Member State.

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;

(b) 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

Amendment

5a. Member States shall maintain a list of the audiovisual media service providers
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.

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.

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 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

(a) manifestly, seriously and gravely infringes Article 6 or Article 6a(1); or

(b) prejudices or presents a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence, or to public health.'
(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 notification provided for in point (b) of this paragraph;

(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.

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

measures taken by the Member State in application of paragraphs 2 and 3 and after having consulted the 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 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 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 the decision.

5. Paragraphs 3 and 4 shall be without prejudice to the application of any procedure, remedy or sanction to the contravention 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

Text proposed by the Commission

(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.

Amendment

(5) Article 4 is replaced by the following:

(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, 7, 9, 10, 11, 13, 16, 17, 19 to 26, 30 and 30a, provided that such rules are in compliance with Union law, respect the freedom of expression and information
and media pluralism and do not contain discriminatory provisions relating to the nationality or place of residence of the media service provider. Member States shall inform the Commission, the ERGA and the contact committee about any more detailed or stricter measures and shall publicly disclose them.

(aa) paragraph 2 is replaced by the following:

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

(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
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 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 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 **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 this Directive.**

(d) **paragraph 7 is replaced by the following:**

7. **The Commission and the 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** 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. **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
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 appropriate.

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 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:

(d) the Member State having jurisdiction over the media service providers and the competent regulatory authorities or supervisory bodies.’

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

1. Member States shall ensure that audiovisual 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.

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 jurisdiction, which may impair their physical, mental or moral development, are necessary and proportionate and fully respect the rights, freedoms and principles set out in the Charter, in particular those set out in Title III and Article 52 thereof.

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

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
the development of Union codes of conduct. 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.'
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

Amendment

(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

Amendment

(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

Member States shall ensure that media service providers under their jurisdiction do not transmit cinematographic works outside periods agreed with the rights holders.

Amendment

(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:

Amendment

(11) Article 9 is replaced by the following:

(-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. Surreptitious audiovisual commercial communication shall be prohibited;

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

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, electronic cigarettes and other tobacco products shall be prohibited;

(e) audiovisual commercial communications for alcoholic beverages shall not be aimed 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 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.

Where necessary, the Commission and the ERGA shall facilitate, in cooperation with the Member States, the development,
Amendment 64

Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2010/13/EU
Article 10

Text proposed by the Commission

(12) in Article 10, point (b) is replaced by the following:

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

Amendment

(12) Article 10 is replaced by the following:

‘Article 10

1. Audiovisual media services or programmes that are sponsored 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 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 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

promotion and adoption of Union codes of conduct.
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 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

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**

Directive 2010/13/EU

Article 12

*Text proposed by the Commission*

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

*Amendment*

(14) Article 12 is deleted;
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 territory in which they are distributed.

Amendment 68

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

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 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

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 or independent producers. Member States shall 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 out in Article 20(2).’

(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
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

Text proposed by the Commission

1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, Member States shall ensure that video-sharing platform providers take appropriate

Amendment

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 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**.

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 **transparent and user-friendly** 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 *hosted* 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);

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).

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

appropriate measures shall respect the

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 uploaded the content as well as the public interest. Appropriate measures shall respect the
1. 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.

4. 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 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 8. Article 8 shall apply to video-sharing platform providers.
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 opinion on the drafts, amendments or extensions of those codes of conduct. The Commission may give appropriate publicity to those codes of conduct.

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 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
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.

Amendment

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

(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

Present text

(19b) Article 29 is amended as follows:

‘Article 29

FE
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 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.

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 implementation of this Directive, the application of national law and the fulfilment of statutory obligations.

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. 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.

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.

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 actively participate in and contribute to ERGA.

7. Member States shall ensure that effective mechanisms exist at national level 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 and/or bodies, as well as the ways of making them accountable shall be clearly defined in law.

4. Member States shall ensure that national regulatory authorities and/or bodies 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. 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 regulatory authorities and/or bodies have separate annual budget allocations to enable them to carry out the tasks assigned to them and to actively participate in and contribute to the ERGA. The budgets shall be made public.

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

‘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 responsibility for overseeing audiovisual media services, or in cases where there is no national regulatory authority, by other representatives as chosen through their

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 represented by the heads or by nominated high level representatives of the national regulatory authority with primary responsibility for overseeing audiovisual
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."

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 and/or bodies shall actively participate in and contribute to the ERGA.**
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.
On 25 May 2016 the Commission published its proposal for amending the so-called AVMS Directive.

During the last term, the European Parliament, and in particular the CULT Committee which has exclusive competence in the matter, called on numerous occasions for such revision in the light of rapid technological and market developments, the emergence of new service providers as well as changes in consumer behaviour, which have blurred the lines between traditional and on-demand services.


The Rapporteurs therefore welcome the Commission’s initiative in proposing this a review at this critical juncture for audiovisual services.

The main points the Rapporteurs would like to address are:

I. Media convergence: alignment of the provisions for linear and non-linear services, Article -2 to Article -2f

The revision of the Directive aims to adapt the current rules to the increasing convergence of media markets and technologies in Europe. The scope of the Directive is being extended to cover not only traditional broadcasting and on-demand services, but also video-sharing platform services as well as user-generated videos.

In order to align the provisions for these services and to create a genuine level playing field, Chapter I has been restructured, in order to establish common rules for audiovisual media services, video-sharing platform services and user-generated videos. The provisions of this Chapter I apply to all services within the scope of the Directive alike. Seven new articles (Am. 32 to Am. 38) have been introduced, these merge several articles from the current Directive and the proposal relating to:

- incitement to violence or hatred, discrimination (Article -2),
- protection of minors from harmful content (Article -2a),
- audiovisual commercial communications, sponsoring (Article -2b) and product placement (Article -2c),
- protection of cinematographic works (Article -2d),
- information rights to recipients of a service (Article -2e),
- co- and self-regulations and codes of conduct (Article -2f).

Such changes in the structure of the Directive are crucial in order to achieve a higher degree of alignment between linear and non-linear services. By doing so, the Directive takes into account the realities of today’s media convergence whilst setting out fair rules for competition.
on media markets. With drastic changes in consumer behaviour and content consumption, and in order to ensure on the one hand a high level of consumer protection and on the other hand a genuine level playing field, the same minimum requirements should be established for all audiovisual services ie. audiovisual media services as well as sponsored user-generated videos or user-generated videos.

II. Protection of minors

The Rapporteurs wish to maintain a high level of protection for minors by retaining a graduated level of protection according to the severity of possible impairment, as referred to in Article -2, paragraph 1, point b, and paragraph 2 (Am.32).

The Rapporteurs would like to stress that there are technical ways to identify videos with harmful content and to eliminate those. However, such instruments must not restrict communicative freedoms. The principle of notice-and-take-down as referred to in Article 14 and Article 15 of Directive 2000/31/EC (‘e-commerce’ Directive) shall therefore apply.

III. Co-and self-regulatory codes of conduct

The Rapporteurs do not support the Commission's proposal for full harmonisation in the form of co-and self-regulation for video-sharing platform services. Since the purpose of the Directive is to simply coordinate national policies, a minimum harmonisation level is created, allowing Member States to set stricter rules.

To ensure consistency, the establishment of co-and self-regulatory codes of conduct has been streamlined in Article -2f (Am.38). In case a Member State has proven that any code of conduct does not work effectively, it remains free to enact laws on the matter concerned.

IV. Quantitative advertising rules, commercial communications and product placement

A higher degree of flexibility on quantitative advertising rules is necessary.

As for the provision on time limits for spots, whilst more flexibility is needed, it is necessary to maintain a sufficient level of consumer protection. The proposed daily limit of 20% could expose viewers to an excessive amount of advertising during prime time. The Rapporteurs therefore suggest in Article 23, paragraph 1 (Am. 77) that stricter limits should apply between 20.00 and 23.00 with a limit of 20% during that period.

Moreover, the provision of undue prominence regarding to product placement should be kept in the new Article -2c of the Directive (Am. 35)

Commercial communications regarding alcoholic beverages, tobacco and medical products should still be limited.

Limitations for commercial communications concerning nutrition should be agreed in codes of conduct in order to achieve a higher level of protection.

V. Promotion of European audiovisual works
The Rapporteurs welcome the Commission's proposal to strengthen the promotion of European audiovisual works. Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum 30% share of European works and that those are given adequate prominence (Am. 75).

The Rapporteurs also suggest in Recital 21 (Am.16) that Member States should ensure that rightholders under their jurisdiction label their audiovisual content that qualifies as European works in their metadata and make it available to service providers, so that they can easily determine whether works are European.

VI. European Regulators Group for Audiovisual Media Services (ERGA)

The Rapporteurs appreciate the contribution of the ERGA as an informative and consultative body. They consider however that to safeguard the prerogatives of Member States, it should not have any decision-making powers. More competences should be instead given to the contact committee, established in Article 29 of the current Directive (Am.82).

The contact committee should be solely competent to make decisions, including on opinions drafted by the ERGA. In that regard, Article -2f, Article 2, paragraph 5b, Article 3, paragraph 4, Article 4, paragraph 1 and Article 4, paragraph 3 (Am. 38, Am. 42, Am. 51, Am. 54, Am. 55, Am. 56 and Am. 57) are modified accordingly.

VII. Accessibility

The Rapporteurs suggest that provisions relating to accessibility should remain in the text of the Directive. Article 7 of the existing Directive is being modified: Media service providers are required to make more efforts on the accessibility of services to people with a visual or hearing disabilities. Such accessibility should be achieved by the end of 2027. The wording proposed (Am. 67) takes into account the UN Convention on the rights of persons with disabilities, whilst leaving sufficient room for manoeuvre on how to reach that objective.

VIII. Other points

- Programmes with a significant children’s audience

The Rapporteurs consider that this notion as suggested by the Commission in its proposal is neither clear nor legally sound, because programmes not initially targeting children, such as sport events or TV singing contests, may fall within this category.

The Rapporteurs suggest to keep the current terminology of ‘children's audience' and 'children programmes' in Recital 16 (Am. 12) as well as Article -2c, Article 10 and Article 33, paragraph 2 (Am. 35, Am. 72 and Am. 94)

- Appropriate prominence of audiovisual media services of general interest (Article 9a)

In order to safeguard media pluralism and diversity, Member States shall have the right to take measures to ensure the appropriate prominence of audiovisual media services of general
- Protection of signal integrity of media service providers (Recital 13a)

It is of utmost importance to guarantee the signal integrity of media service providers. Third parties, other than recipients of a service should not be able to modify programmes and services without the consent of the media service provider concerned (Am. 10).
1.2.2017

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND FOOD SAFETY

for the Committee on Culture and Education


Rapporteur: Herbert Dorfmann

SHORT JUSTIFICATION


The proposal seeks to respond to the market, consumption and technological changes in the audiovisual media landscape, due to ever-increasing convergence between television and services distributed via the internet. Traditional broadcasting in the EU remains strong in terms of viewership, advertising revenues, and investment in content (around 30% of revenues). However, broadcasters are extending their activities online and new players offering audiovisual content via the internet (e.g. video-on-demand providers and video-sharing platforms) are getting stronger and competing for the same audiences. Yet, TV broadcasting, video-on-demand and user-generated content are subject to different rules and varying levels of consumer protection.

The general objectives of the proposal are to (1) enhance the protection of minors and consumers in general through, where possible, harmonized European audiovisual standards, (2) ensure a level playing field between traditional broadcasters, on-demand audiovisual media services and video-sharing platforms and (3) simplify the legislative framework, in particular as regards commercial communication.

The rapporteur welcomes the Commission’s initiative in proposing a review of the current legislative framework for all audiovisual services providers.
Concerning the regulatory framework, the rapporteur considers it essential to reinforce the role of Codes of conduct for regulatory authorities, and calls for more harmonization in the national Codes of Conduct, as well as the development of Union Codes of Conduct.

The rapporteur also stresses the need to find a balance between the safeguard of freedom of expression and the protection of viewers, in particular vulnerable viewers. This is particularly true for audiovisual commercial communications regarding foods and beverages that are high in salt, sugars or fat, or regarding alcoholic beverages. The protection of viewers, in particular children, needs to be effectively reinforced, in particular through the use of uniform standards and terminology in the proposal. The limitation of inappropriate commercial communications for minors and children, as well as the prohibition of product placement should cover all children’s programmes and content aiming at a children’s audience, rather than programmes with a significant children’s audience.

Video sharing platforms and social media increasingly include in their offers audiovisual material. These services often fall outside the scope of the AVMSD either because the providers do not control the selection and organisation of the content or because their principal purpose is not to offer audiovisual content. The rapporteur is of the view that video-sharing platforms, which are currently operating under a lighter regime under the e-Commerce Directive, should have a mandatory monitoring mechanism in place to ensure that no illegal or harmful content is uploaded. All provisions aiming at enhancing the protection of vulnerable viewers should include a proper monitoring and enforcement mechanism.

**AMENDMENTS**

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Culture and Education, as the committee responsible, to take into account the following amendments:

**Amendment 1**

**Proposal for a directive**

**Citation 1**

*Text proposed by the Commission*

– Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,

**Amendment**

– Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), 62 and 168 thereof,

**Amendment 2**

**Proposal for a directive**

**Recital 1**
The last substantive amendment to Directive 89/552/EEC of the Council, later codified by Directive 2010/13/EU of the European Parliament and of the Council, 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.


1).

Amendment 3
Proposal for a directive
Recital 3

Text proposed by the Commission

(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

Amendment

(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. In so far as social networks constitute a major source of information for consumers and depend increasingly on audiovisual content generated or made available by their users, such networks should be included in the scope of Directive 2010/13/EU when they fall within 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
with editorial responsibility to abide by the provisions of this Directive.

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 4**

**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\(^1\), 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\(^2\). 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 this Directive.

*Amendment*

(7) In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda\(^1\), 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\(^2\). 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 may constitute a useful ancillary 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. 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 this Directive.

Amendment 5
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 and video-sharing platform providers provide all necessary 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 6
Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

(9a) The right of persons with an impairment and of the elderly to participate and be integrated into social and cultural life is linked to the provision of accessible audiovisual media services. Therefore, Member States should take appropriate and proportionate measures to ensure that media service providers under their jurisdiction actively seek to make content accessible to persons with visual or hearing impairments as soon as
Amendment  7
Proposal for a directive
Recital 9 b(new)

Text proposed by the Commission

Amendment

(9b) Existing provisions on improving access to media services for persons with a visual or hearing impairment should be strengthened to ensure progress and continuity in the efforts of Member States and media providers.

Amendment  8
Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

(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 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  9
Proposal for a directive
Recital 10 a (new)
(10a) In addition, Member States should ensure that self- and co-regulatory codes of conduct aim to effectively reduce the exposure of children and minors to audiovisual commercial communications relating to the promotion of gambling. Certain co-regulatory or self-regulatory systems exist at Union and national level in order to promote responsible gambling, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible gambling messages accompany audiovisual commercial communications for gambling.

Amendment 10
Proposal for a directive
Recital 11

(11) Similarly, Member States should be encouraged to ensure that self-and co-regulatory codes of conduct are used to effectively limit the exposure of children and minors to audiovisual commercial communications for alcoholic beverages. Certain co-regulatory or self-regulatory systems exist at Union and national level in order to market responsibly alcoholic beverages, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.
Amendment 11

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. 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

(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 **should ensure** a more coherent and effective approach.

Amendment 12

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

(12a) **Member States should develop a framework for the periods constituting ‘prime time’. Such a framework should be used when applying the provisions of this Directive relating to the protection of minors.**

Amendment

(12a) **Member States should develop a framework for the periods constituting ‘prime time’. Such a framework should be used when applying the provisions of this Directive relating to the protection of minors.**

Amendment 13

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**

Amendment

**deleted**
without advertising, has led to a greater choice for viewers, who can easily switch to alternative offers.

Amendment 14
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 at a 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 and content aimed at a 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 15
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 and social networks, on which users - particularly minors - increasingly consume audiovisual content. In this context, harmful content and hate speech...
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. 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, hatred or terrorism, to set out effective rules and monitoring mechanisms on those matters.

Amendment 16
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) An important share of the content stored on video-sharing platforms or social networks 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 are required to take effective measures to protect minors from content that may impair their physical, mental or moral development and protect all citizens from incitement to terrorism or 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 17
Proposal for a directive
Recital 31

Text proposed by the Commission

(31) When taking the appropriate measures to protect minors from harmful content and to protect all citizens from content containing incitement to violence

Amendment

(31) When taking the appropriate measures to protect minors from harmful content and to protect all citizens from content containing incitement to terrorism,
or hatred in accordance with this Directive, the applicable fundamental rights, as laid down in the Charter on Fundamental Rights of the European Union, should be carefully balanced. That concerns in particular, as the case may be, the right to respect for private and family life and the protection of personal data, the freedom of expression and information, the freedom to conduct a business, the prohibition of discrimination and the right of the child.

**Amendment 18**

**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

*Amendment*

(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 their independence and thus 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
promotion of fair competition.

Amendment 19

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

Text proposed by the Commission
(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;

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

Amendment 20

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 drama;"

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 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 21
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

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

Text proposed by the Commission

1. Member States shall ensure that audiovisual 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.

Amendment

1. Member States shall ensure that audiovisual media service providers and video-sharing platform providers effectively provide clear information to viewers, prior to and during programmes as well as before and after any interruption to programmes, about content which may damage or disturb minors and, in particular, impair their physical, mental or moral development. For this purpose, Member States shall use a system of descriptors indicating the nature of the content of an audiovisual media service.

Amendment 23

Proposal for a directive
Article 1 – paragraph 1 – point 9
Directive 2010/13/EU
Article 6a – paragraph 3
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.

 Amendment 24

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:
“Member States shall take measures to ensure that services provided by media service providers under their jurisdiction are made gradually accessible to people with a visual or hearing disability in line with their obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Member States shall require broadcasters under their jurisdiction to broadcast events of major importance for society in an accessible way for persons with functional limitations, including persons with disabilities.”

Amendment 25

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point a (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point e
Amendment

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point -a a (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

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

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

Amendment 26

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point -a a (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(-aa) in paragraph 1, the following point is inserted:

“(fa) audiovisual commercial communications for gambling services shall not be aimed specifically at minors and shall contain a clear message indicating the minimum age below which gambling is not permitted.”

Amendment 27

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point a
Directive 2010/13/EU
Article 9 – paragraph 2 – subparagraph 1
Text proposed by the Commission

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.

Amendment 28

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point a a (new)
Directive 2010/13/EU
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

(aa) the following paragraph is inserted:

“2a. For the purposes of points (e) and (ea) of paragraph 1, Member States shall determine the hours of peak viewing by children’s audiences in their territory according to their respective national situations.”

Amendment 29

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point b
Directive 2010/13/EU
Article 9 – paragraph 3

Text proposed by the Commission

3. Member States and the Commission shall encourage the

Amendment

3. Member States shall adopt measures to minimise the exposure of
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.

Amendment 30

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point b
Directive 2010/13/EU
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

3a. Member States and the Commission shall ensure the development of co-regulatory codes of conduct regarding inappropriate audiovisual commercial communications for gambling. Those codes of conduct shall be used to effectively limit the exposure of minors to audiovisual commercial communications for gambling.

Amendment 31

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point b
Directive 2010/13/EU
Article 9 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. The Commission and 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 develop and promote the adoption of Union codes of conduct.
Amendment 32

Proposal for a directive
Article 1 – paragraph 1 – point 13
Directive 2010/13/EU
Article 11 – paragraph 2

**Text proposed by the Commission**

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.

**Amendment**

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 and content aimed at a children's audience.

Amendment 33

Proposal for a directive
Article 1 – paragraph 1 – point 14
Directive 2010/13/EU
Article 12 – paragraph 1

**Text proposed by the Commission**

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.

**Amendment**

Member States shall take all necessary 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 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 Commission and the ERGA shall develop technical standards to this effect and ensure an effective implementing mechanism.*
Amendment 34

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

Text proposed by the Commission

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:

Amendment

1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, Member States shall ensure that video-sharing platform providers take all necessary measures to:

Amendment 35

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

Text proposed by the Commission

(b) protect all citizens from content containing 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

(b) protect all citizens from content containing incitement to terrorism or 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 36

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

Text proposed by the Commission

1a. Member States shall take appropriate measures to ensure that programmes provided by video-sharing platform 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 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

The aim of the amendment is to strengthen protection of minors with the context of video-sharing platforms.

Amendment 37

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2010/13/EU

Article 28a – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

Those measures shall consist of, as appropriate:

Amendment

The Commission and the ERGA shall develop technical standards to this effect and ensure an effective implementing mechanism. Those measures shall consist of, as appropriate:

Amendment 38

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2010/13/EU

Article 28a – paragraph 7

Text proposed by the Commission

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

Amendment

7. The Commission and ERGA shall encourage video-sharing platform providers to exchange best practices on co-regulatory systems across the Union.

Where necessary, the Commission and the
facilitate the development of Union codes of conduct.

ERGA shall *develop and promote the adoption* of Union codes of conduct.

### Amendment 39

**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 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. The report shall assess the effectiveness of the self-regulation and co-regulation practices in all Member States, in particular in the light of advertising practices, when targeting children and families. If the report concludes that self-regulatory codes of conduct regarding audiovisual commercial communications, for example for unhealthy food and sweetened beverages, have not delivered expected results in minimising the exposure of children and minors to such audiovisual commercial communications, the Commission shall submit a proposal for the regulation of this specific matter.

*Justification*

*It is important to set up a review clause, especially for advertising practices, to adequately protect children’s rights, health and well-being.*
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>Title</th>
<th>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</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee responsible</td>
<td>CULT</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>9.6.2016</td>
</tr>
<tr>
<td>Opinion by</td>
<td>ENVI</td>
</tr>
<tr>
<td>Date announced in plenary</td>
<td>9.6.2016</td>
</tr>
<tr>
<td>Rapporteur</td>
<td>Herbert Dorfmann</td>
</tr>
<tr>
<td>Date appointed</td>
<td>14.7.2016</td>
</tr>
<tr>
<td>Discussed in committee</td>
<td>29.11.2016</td>
</tr>
<tr>
<td>Date adopted</td>
<td>31.1.2017</td>
</tr>
<tr>
<td>Result of final vote</td>
<td>+: 29</td>
</tr>
<tr>
<td></td>
<td>−: 7</td>
</tr>
<tr>
<td></td>
<td>0: 30</td>
</tr>
<tr>
<td>Substitutes present for the final vote</td>
<td>Clara Eugenia Aguilera García, Inés Ayala Sender, Jørn Dohrmann, Herbert Dorfmann, Martin Häusling, Jan Huitema, Peter Jahr, Merja Kylönen, Gesine Meissner, James Nicholson, Gabriele Preuß, Bart Staes, Tibor Szanyi, Tiemo Wölken</td>
</tr>
<tr>
<td>Substitutes under Rule 200(2) present for the final vote</td>
<td>Dieter-Lebrecht Koch, Inmaculada Rodríguez-Piñero Fernández</td>
</tr>
</tbody>
</table>
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Culture and Education


Rapporteur: Emma McClarkin

SHORT JUSTIFICATION

Since 2010, the Audiovisual Media Services Directive (Directive 2010/13/EU) has provided a strong regulatory framework that has emboldened the cultural and creative industries and protected vulnerable consumers, such as minors, through a minimum harmonisation approach to standards for the European audiovisual media services industry.

In light of new technology, consumer demand and the resulting continual shift from linear to non-linear broadcasting methods, the review of the AVMSD seeks to create a more level playing field to enable broadcasters and content producers using both new and traditional technologies to compete, protect, distribute and invest in cultural content.

Scope

The rapporteur believes that it is vital that any widening in scope, in particular regarding video sharing platforms, does not infringe upon Directive 2000/31/EC (the E-commerce Directive) and is specific only to the audiovisual sector. Current parameters of the AVMSD are helpful in already encompassing many new technologies with a definition centring on the type of output as opposed to the means of distribution.

Any enlargement of scope needs to ensure that the same standard of protection throughout. Geographically the scope of the current regulation remains appropriate and conducive to achieving a strong single market for broadcasting services.

Definitions

On the whole, the current definitions laid out in 2010/13/EU regulation remain relevant.
Notes that where media convergence has occurred there is value in differentiating content that is with or without editorial responsibility. This will prevent encroachment on the E-commerce Directive, crucially safeguarding the interpretation of the liability regime of intermediary service providers.

Country of Origin (COO)

The principle of COO is the backbone of this regulation and any moves to erode this would be counterproductive to the audiovisual media services industry, the single market and the ability to distribute content cross-borders. The COO principle simplifies the regulatory burden on broadcasters and provides clear legal and editorial responsibility of ownership of content.

The Commission’s proposal to allow national levies on cross border delivery runs counter to COO and is a first step towards a Country of Destination approach. For this reason, the rapporteur has removed it from this IMCO draft opinion. The IMCO Committee must commit to safeguarding the COO principle, as it is central to a number of regulations under IMCO competency, specifically Directive 2000/31/EC.

However, concerns regarding circumvention of national rules via the COO principle need to be addressed. Therefore greater cooperation, stronger and faster redress mechanisms for nations should be further explored.

Commercial Communication Rules

Whilst greater flexibility surrounding commercial communication rules is welcome, amendments to these provisions should not weaken consumer protection. It is positive to see the removal of “due prominence” concerning product placement, previously the regulatory ambiguity of this term has limited the ability of broadcasters to use this commercial revenue stream.

However, greater flexibility surrounding minutage and the quantitative limits fails to take account of the various ways in which adverts are financed across the EU, both in terms of impact and minutes. This will not increase advertising expenditure for linear broadcasting. This flexibility will lead to congested peak hours, weakening the advertising impact, creating periods of saturation to the detriment of consumers. In the interest of consumers, this draft opinion removes measures designed to deregulate advertising minutage.

European Works

The rapporteur believes that whilst the promotion of European Works should be encouraged, the approach adopted should be market-driven and not prescribe prominence or discoverability of content. The use of quotas should be limited and in no way exceed the Commission’s proposals. Larger quotas and more specific prescriptions are akin to protectionism of cultural markets and fail to appreciate the larger global market the EU digital single market is a part of. Investment in European content is maximised when generated through competition and market-demand, not artificial benchmarks and levies.

National Regulatory Authorities (NRAs)

The Commission’s proposals to improve the effectiveness of NRAs are necessary to ensure
universal and comprehensive implementation of the AVMSD. Although ERGA plays an important role in the coordination and exchange between regulatory bodies, the burden of AVMSD falls within Member States and NRAs. Member States should devote adequate resources to these bodies to develop their capabilities and provide clear redress and complaint processes.

**Protection of Minors**

In the face of media convergence, the review of the AVMSD provides an opportunity to level up, where necessary, protection of minors in the non-linear sphere. It is important that any new definition or alteration in scope of AVMSD seeks to improve protection of minors while still providing the flexibility to Member States to address illegal activities.

**Accessibility**

Whilst vital to continue efforts to mainstream accessibility, Article 7 of the current AVMSD should be retained and improved with references to AVMS deleted from the European Accessibility Act (EAA). The EAA, which mixes both hard and soft aspects of AVMS delivery\(^1\) does not sufficiently recognise the realities and needs of the audiovisual media sector, which could stifle genuine innovation that will, in future, be best placed to meet individual consumer needs.

**AMENDMENTS**

The Committee on the Internal Market and Consumer Protection calls on the Committee on Culture and Education, as the committee responsible, to take into account the following amendments:

**Amendment 1**

Proposal for a directive

Recital 1

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
</table>

\(^1\) “audiovisual media services and related consumer equipment with advanced computing capability”, Proposal for a Directive of the European Parliament and of the Council, on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services, COM(2015) 615 final, 2015/0278(COD)
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.


Justification

The role of social medias in our society is more and more important, especially for the new generations and now constitute a privileged access point to audiovisual media content.

Amendment 2

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Directive 2010/13/EU should remain applicable only to those services whose 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

(3) Directive 2010/13/EU should remain applicable only to those services which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public and 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 represent an important access point to information for consumers and rely increasingly on audiovisual content generated or made available by their users. Social media services are generally not included within the scope of this Directive but it is necessary to include them when their services meet all the criteria defining a video-sharing platform. Similarly, audiovisual media services that provide and distribute audiovisual media content and do not compete with television broadcasting, for example, by providing and distributing the audiovisual content of private users for sharing in communities of interest, should not be included. 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 3
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 4
Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

(3b) On-demand audiovisual media services compete for the same audience as television broadcasts, and the nature and means of access to those on-demand audiovisual media services would lead the user reasonably to expect regulatory protection within the scope of this Directive. In the light of this fact, and in
order to prevent disparities as regards free movement and competition, the concept of "programme" should be interpreted in a dynamic way, which takes into account developments in the provision of the content of audiovisual media services that are directed at a significant audience and considered mass media.

Amendment 5
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 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

(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 reliable facts. The European Regulators Group for Audiovisual Media Services (ERGA) should therefore be empowered to provide opinions, in conjunction with national regulatory authorities, on jurisdiction upon the Commission's request.

Amendment 6
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

Amendment

(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 and where applicable to Member States, be aligned to the definition in the Council Framework Decision.
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.

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 7**

**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, 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. *The different means of content descriptors should be clear enough to stipulate whether the specific content may be of harm to minors.*

**Amendment 8**

**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*

**Amendment**

(10) Member States should be encouraged to ensure that *self-regulation and co-regulation, including codes of conduct are used to effectively minimise* the exposure of children and minors to audiovisual commercial communications regarding foods and beverages that are
television advertising to children. Member States should be encouraged to ensure that self-and co-regulatory codes of conduct 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 9
Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Similarly, Member States should be encouraged to ensure that self-and co-regulatory codes of conduct are used to effectively reduce the exposure of children and minors to audiovisual commercial communications for alcoholic beverages. Certain co-regulatory or self-regulatory systems exist at Union and national level in order to market responsibly alcoholic beverages, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.

Amendment

(11) Similarly, Member States need to ensure that self-and co-regulatory codes of conduct are used to effectively limit the exposure of children and minors to audiovisual commercial communications for alcoholic beverages. Certain co-regulatory or self-regulatory systems exist at Union and national level in order to market responsibly alcoholic beverages, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.

Amendment 10
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

Amendment

(12) In order to ensure a high level of consumer protection and public health
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.

while removing 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. _They should be of assistance to the national regulatory authorities in the drafting of their national codes of conduct and help improve coherence in the implementation of Directive 2010/13/EU._

**Amendment 11**

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.**

_Justification_

_The existing quantitative rule for advertisement proved itself to be effective in striking a balance between consumer protection and the financing of audiovisual media. The increase in the audiovisual offer should not justify a general decrease in the level of protection offered to consumers from advertising content. An abolition of the quantitative rule would also affect vital non audiovisual sectors, such as the press, which rely heavily on advertising and already face financing difficulties._
Amendment 12
Proposal for a directive
Recital 13 a (new)

_amendment 12

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

(13a) In order to ensure the effectiveness of Directive 2010/13/EU, in particular with regard to the editorial responsibility of media service providers, the integrity of programmes and services should be safeguarded. Third parties other than the recipient of the service should not modify programmes and services without the consent of the media service provider concerned. Changes in the display of programmes and services that have been authorised or initiated by the recipient should be permitted.

Amendment 13
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.
editorial independence.

Amendment 14

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

(15a) In order to protect the editorial responsibility of the media service provider 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 must 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 15

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
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 editorial independence is not affected.

Amendment

(17) 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 editorial independence is not affected.

Amendment 17
Proposal for a directive
Recital 18

Text proposed by the Commission

(18) As the increase in the number of new services has led to a greater choice for viewers, broadcasters are given greater flexibility with regard to the insertion of advertising and teleshopping spots where this does not unduly impair the integrity of programme. Yet, in order to safeguard

Amendment

(18) Even though the increase in the number of new services has led to a greater choice for viewers, it remains necessary to continue to protect the integrity of programmes and consumers from disproportionately frequent advertising and teleshopping spots. Therefore, in order to
the specific character of the European television landscape, interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection should remain limited.

safeguard the specific character of the European television landscape, interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection should remain limited and not be subject to further flexibility.

Justification

Underlines the importance of maintaining the 30 min rules between advertising interruptions for cinematic works, as it would disproportionately affect the programmes integrity and does not correspond to the consumer habits, nor to an imperative need for the audiovisual media services.

Amendment 18

Proposal for a directive
Recital 19

Text proposed by the Commission

Amendment

(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

Proposal for a directive
Recital 20

Text proposed by the Commission

Amendment

(20) Many broadcasters are part of... deleted
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 with 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.

Justification

Allowing media groups to freely make announcement within all the broadcasters they own in connection to the programmes of the owned broadcasters would be detrimental to a fair competition in the sector as it would give an undue advantage to the dominant actors. It would also lead to an unnecessary increased in the amount of advertising as these announcement would be excluded from the quantitative rules.

Amendment 20

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.

Amendment

(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that, where practical and by appropriate means, their catalogues contain a minimum share of European works without affecting the principle of media pluralism and where such measures do not affect the services provided to the consumer.

Amendment 21

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Providers of on-demand audiovisual media services should be encouraged to promote the production and distribution of European works by ensuring that their catalogues contain a share of European works and that the viewing experience of the consumer is not affected by this.

Amendment 22

Proposal for a directive

Recital 22

Text proposed by the Commission

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 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 territory. In this case financial obligations should only be charged on the revenues generated through the audience in that Member State.

(22) In order to ensure adequate levels of investment on European works, it should be possible for Member States 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. Financial obligations can only be levied domestically by the Member States upon on-demand services within their domestic jurisdiction, in accordance with the country of origin principle.
Amendment 23
Proposal for a directive
Recital 23

Text proposed by the Commission

(23) When assessing on a case-by-case basis whether an on-demand audiovisual media service established in another Member State is targeting audiences in its territory, a Member State shall refer to indicators such as advertisement or other promotions specifically aiming at customers in its territory, the main language of the service or the existence of content or commercial communications aiming specifically at the audience in the Member State of reception.

Amendment 24
Proposal for a directive
Recital 24

Text proposed by the Commission

(24) When Member States impose financial contributions to providers of on-demand services such contributions shall seek an adequate promotion of European works, while avoiding risks of double imposition for service providers. With this view, 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.

Amendment 25
Proposal for a directive
Recital 25
(25) In order to ensure that obligations on promotion of European works do not undermine market development and to allow for the entry of new players in the market, companies with no significant presence on the market should not be subject to such requirements. This is in particular the case for companies with a low turnover and low audiences and small and micro enterprises as defined in Commission Recommendation 2003/361/EC. It could also be inappropriate to impose such requirements in cases where – given the nature or theme of the on-demand audiovisual media services – they would be impracticable or unjustified.


Amendment 26
Proposal for a directive
Recital 25 a (new)

Text proposed by the Commission

(25a) The Commission should ensure adequate and geographically-diversified funding under the Creative Europe Media programme to support the circulation of creative content across borders, including the improvement of digital distribution of European audiovisual works and the development of innovative financing.
models for creative content.

Amendment 27
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. In this context, harmful content and hate speech stored on video-sharing platforms have increasingly given rise to concern. Whilst the arbitrary removal of such content, being often dependent on subjective interpretations, can undermine the freedom of expression and information, it is necessary to protect minors from harmful content and all citizens from content containing incitement to, inter alia, violence, hatred or terrorism. It is also necessary to encourage video-sharing platforms to put in place voluntary measures on those matters, in line with national and Union law and in accordance with regular guidelines issued by authorities, and without prejudice to Articles 14 and 15 of Directive 2000/31/EC of the European Parliament and of the Council\(^1\). The most harmful content, such as gratuitous violence and pornography, should be subject to the strictest measures.

Amendment 28
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) An important share of the content stored on video-sharing platforms is not under the editorial responsibility of the video-sharing platform provider. However, *some* providers *demonstrate an ability to* determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms, *in particular by tagging and sequencing*. Therefore, those providers should be required to take appropriate measures to protect minors from content that may impair their physical *and* mental development, *to the extent that they have obtained actual knowledge of said content*, 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. *Where practical and available, the removal of that content through the use of reliable automatic recognition systems could be considered.*

Amendment 29
Proposal for a directive
Recital 30

*Text proposed by the Commission*

(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.

*Amendment*

(30) It is appropriate to involve *relevant stakeholders, including civil society organisations, and* the video-sharing platform providers as much as possible when implementing the appropriate measures to be taken pursuant to this Directive. *Transparent and accountable co-regulation should therefore be encouraged and monitored by the*
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 such 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\(^{35}\). It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.


**Amendment 30**

**Proposal for a directive**

**Recital 31 a (new)**

> Text proposed by the Commission

**Amendment**

(31a) *To ensure that the fundamental rights of users are protected, regulatory authorities of Member States, in cooperation with the ERGA and the Commission, should regularly issue guidelines on the terms and conditions applicable to the removal of harmful content.*
content, in accordance with national and Union law and the Charter of Fundamental rights of the European Union.

Amendment 31
Proposal for a directive
Recital 32

Text proposed by the Commission

(32) The video-sharing platform providers 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.

Amendment

(32) The video-sharing platform providers 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. 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 internet.

Amendment 32

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) Regulatory authorities of the Member States can achieve the requisite degree of structural independence only if established as separate legal entities and functionally independent organs of such 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. There is a need to introduce certain obligations for Member States to have independent and effective regulatory authorities. To that end, the Member States should establish a set of administrative and financial requirements in order to facilitate these independent and effective regulatory authorities.
Amendment 33

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 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 _consistent_ 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.

Amendment 34

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 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 particular examine the need for regulatory intervention against the results of market forces. Where Member States take measures to ensure _non-discriminatory_ discoverability and _access to_ content of general interest objectives under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be _introduced_ where they are necessary and _proportionate_ to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in particular examine the need for regulatory intervention against the results of the
States decide to impose discoverability rules, they should only impose proportionate obligations on undertakings, in the interest of legitimate public policy considerations.

outcome of market forces. Where Member States decide to introduce discoverability rules, they should only take proportionate measures with regard to undertakings, in the interest of legitimate public policy considerations.

Amendment 35
Proposal for a directive
Recital 38 a (new)

*Text proposed by the Commission*

(38a) The rights of persons with disabilities and of the elderly to participate in and be integrated into the social and cultural life of the Union is inextricably linked to the provision of accessible audiovisual media services. It is therefore important to ensure that accessibility is properly addressed and promoted in Directive 2010/13/EU, in line with the United Nations Convention on the Rights of Persons with Disabilities.

Amendment 36
Proposal for a directive
Recital 38 b (new)

*Text proposed by the Commission*

(38b) 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. Audiovisual 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 37
Proposal for a directive
Recital 39 a (new)

Text proposed by the Commission

(39a) Any self-regulatory and co-regulatory measure implemented at Member State level should fully respect the obligations under the Charter of Fundamental Rights, in particular Article 52.

Amendment 38
Proposal for a directive
Article 1 – Paragraph 1 – point 1 – point b
Directive 2010/13/EU
Article 1 – paragraph 1 – point aa – point i

Text proposed by the Commission

(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;

Amendment

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

Amendment 39
Proposal for a directive
Article 1 – Paragraph 1 – point 1 – point b
Directive 2010/13/EU
Article 1 – paragraph 1 – point aa – point ii

Text proposed by the Commission

(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,

Amendment

(ii) the organisation of the stored content is determined by the provider of the service;
displaying, tagging and sequencing;

Amendment 40

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

Text proposed by the Commission
(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;

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

Amendment 41

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 points are inserted:
(bb) ‘access service’ means an add-on feature of the audiovisual media service that improves the accessibility of the programmes for people with functional limitations, including persons with disabilities. Access services include subtitles for the deaf and hard of hearing, audio description, spoken subtitles or audio subtitles and sign language interpretation;

Amendment
(bc) ‘subtitles for the deaf and hard of hearing’ means a synchronised visual text alternative for both speech and non-speech audio information needed to understand media content;

(bd) ‘audio description’ means additional audible narrative, interleaved with the dialogue, which describes the
significant aspects of the visual content of the programme that cannot be understood from the main soundtrack alone;

(b) ‘spoken subtitles’ or ‘audio subtitles’ means subtitles read aloud in the national language when the audio speech is in a different language;

(bf) ‘sign language interpretation’ means simultaneous translation of both speech and non-speech audio information needed to understand the programme, provided in the national sign language.

**Justification**

**Amendment linked to the re-introduction of accessibility requirements**

**Amendment 42**

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**

(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**

(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 a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates. **If a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in both Member States, the media service provider shall be deemed to be established in the Member State where the majority of editorial decisions are taken in the pursuit of the audiovisual media service activity;**
Amendment 43

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

*Text proposed by the Commission*

(a) manifestly, seriously and gravely infringes Articles 6 or 12, or both;

*Amendment*

(a) manifestly, seriously and gravely infringes Articles 6, 7 or 12;

Amendment 44

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

*Text proposed by the Commission*

(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;

*Amendment*

deleted

Amendment 45

Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2010/13/EU
Article 3 – paragraph 3 – point d

*Text proposed by the Commission*

(d) the media services provider has contravened point (a), (b) or (c) of paragraph 2 at least once after the notification provided for in point (b) of this paragraph;

*Amendment*

deleted
Amendment 46

Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2010/13/EU
Article 3 – paragraph 3 – point e

Text proposed by the Commission

(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.

Amendment

(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 within 15 days of the notification provided for in point (b). It shall duly take into account those views as well as the views of the Member State of jurisdiction.

Amendment 47

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

Text proposed by the Commission

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.

Amendment

4. The Commission shall, within two 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 two 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.

Amendment 48

Proposal for a directive
Article 1 – paragraph 1 – point 4
Directive 2010/13/EU
Article 3 – paragraph 6

Text proposed by the Commission

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.

Amendment

6. Member States may, if the service provided by a media service provider gravely infringes upon the conditions laid down by points (a), (b) and (c) of paragraph 2 and 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.

Amendment 49

Proposal for a directive
Article 1 – paragraph 1 – point 4

PE587.655v03-00 132/237 RR\1125609EN.docx
Directive 2010/13/EU
Article 3 – paragraph 7

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.

Amendment 50

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point a
Directive 2010/13/EU
Article 4 – paragraph 1

Text proposed by the Commission

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.

Amendment

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, 7, 9, 10, 11, 12, 13, 16, 17, 19 to 26, 30 and 30a, provided that such rules are in compliance with Union law and do not contain discriminatory provisions relating to the nationality or place of residence of the service provider.

Amendment 51

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point c
Directive 2010/13/EU
Article 4 – paragraph 4 – point c

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, 7, 9, 10, 11, 12, 13, 16, 17, 19 to 26, 30 and 30a, provided that such rules are in compliance with Union law and do not contain discriminatory provisions relating to the nationality or place of residence of the service provider.
(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.

Amendment 52

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point c
Directive 2010/13/EU
Article 4 – paragraph 5

Text proposed by the Commission

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 concerned does not provide the information requested within the period set by the Commission or provides incomplete information, the Commission shall take a decision, within a period of two weeks from the expiry of the period fixed or following receipt of the incomplete information, that the measures taken by the Member State in accordance with paragraph 3 are incompatible with Union law.

Amendment

(c) the Commission has decided within 2 months, 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.
State in question shall refrain from taking the proposed intended measures.

Union law. Where the Commission decides that the measures are incompatible with Union law, the Member State in question shall refrain from taking the proposed intended measures;

Amendment 53

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point d
Directive 2010/13/EU
Article 4 – paragraph 7

Text proposed by the Commission

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 appropriate.

Amendment

7. Member States shall encourage co-regulation and/or self-regulatory regimes, for example 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 under the jurisdiction of 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 within the Member State’s jurisdiction.

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 for information.

The Commission may ask ERGA to give an opinion on the drafts, amendments or extensions of those codes. The Commission shall publish, and may raise awareness on, those codes as appropriate.
Amendment 54

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point d a (new)
Directive 2010/13/EU
Article 4 – paragraph 8 a (new)

Text proposed by the Commission

(da) A new paragraph is added as follows:

‘8a. This Directive is without prejudice to the ability of Member States to impose obligations to ensure access to and appropriate prominence of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity.’;

Amendment 55

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 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 56

Proposal for a directive
Article 1 – paragraph 1 – point 9
Directive 2010/13/EU
Article 6a – paragraph 2 a (new)
Text proposed by the Commission

Amendment

2a. The Commission shall encourage Member States to develop media literacy as a future-proof tool to develop the capability of children to understand the difference between content and commercial communications.

Justification

Children watch a lot of content that might not be originally directed to them. To enhance media literacy is a good and future-proof tool to develop children’s capabilities to understand the difference between content and commercial communications.

Amendment 57

Proposal for a directive
Article 1 – paragraph 1 – point 9
Directive 2010/13/EU
Article 6 a – paragraph 3

Text proposed by the Commission

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.

Amendment 58

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 develop
measures to ensure that services provided by media service providers under their jurisdiction are made progressively more accessible to people with disabilities. These measures shall be developed in consultation with relevant stakeholders, including media service providers and organisations of persons with disabilities.

2. The Commission and the ERGA shall facilitate the exchange of best practices between audiovisual media service providers.

3. 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 ensure that this information is made publically available.

4. The measures referred to in paragraph 1 shall encourage audiovisual media service providers to develop, and make publicly available, accessibility action plans in respect of progressively making their services more accessible to persons with disabilities. Such action plans shall be communicated to national regulatory authorities.

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

6. Member States shall ensure that audiovisual 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 ensure that audiovisual media service providers make their websites, online applications and mobile-based services, including mobile apps, used for the provision of the service, more accessible in a consistent and adequate way for users' perception, operation and understanding, and in a robust way which facilitates interoperability with a variety of user agents and assistive technologies available at Union and international level.

Amendment 59

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point -a (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point c – point ii

Present text

‘(ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;’

Amendment

‘(ii) include or promote any discrimination based on 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 or sexual orientation;’

(http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32010L0013)

Justification

In line with Article 21 of the Charter of Fundamental Rights of the EU.

Amendment 60

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point -a a (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point c – point iv a (new)
Text proposed by the Commission

Amendment

(-aa) The following point is added:

‘(iva) be targeted at minors;’

Amendment 61

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point -a b (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point e

Present text

Amendment

(-ab) Paragraph 1, point (e) is amended as following:

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

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


Justification

Limit on the advertising of energy drinks

Amendment 62

Proposal for a directive
Article 1 – paragraph 1 – point 11 –point -a c (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(-ac) The following point is added:

‘(ga) any audiovisual commercial communications, accompanying or included in programmes with a significant children's audience, shall be prohibited.’
Amendment 63

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point a
Directive 2010/13/EU
Article 9 – paragraph 2

Text proposed by the Commission

(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.

Those codes should be used to effectively reduce the exposure of minors to audiovisual commercial communications of foods and beverages that are high in salt, sugars or fat or that otherwise do not fit national or international nutritional guidelines. Those codes should provide that the audiovisual commercial communications are not to emphasise the positive quality of the nutritional aspects of such foods and beverages.

The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct; ’
Amendment 64

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point b
Directive 2010/13/EU
Article 9 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. Member States and the Commission shall encourage the development of self- and co-regulation including codes of conduct regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes, based on best practices in Member States, should be used to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic beverages.

Amendment 65

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point b
Directive 2010/13/EU
Article 9 – paragraph 4

Text proposed by the Commission

4. The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct;

Amendment

4. The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate and in accordance with the principles of subsidiarity and proportionality, the Commission shall consider the development of Union codes of conduct based on best practices in Member States;

Amendment 66

Proposal for a directive
Article 1 – paragraph 1 – point 11 a (new)
Directive 2010/13/EU
Article 9 a (new)
Text proposed by the Commission

(11a) The following Article is inserted:

‘Article 9a

Member States remain free to take appropriate and non-discriminatory measures ensuring the appropriate prominence of audiovisual media services of general interest. Such measures shall be proportionate and meet general objectives such as media pluralism, freedom of speech, and cultural diversity clearly defined by Member States in accordance with Union law.

Such measures shall only be imposed where they are necessary in order to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States shall, in 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 shall only impose proportionate obligations on undertakings, in the interest of legitimate public policy considerations.’

Amendment 67

Proposal for a directive
Article 1 – paragraph 1 – point 11 b (new)
Directive 2010/13/EU
Article 9 b (new)

Text proposed by the Commission

(11b) The following article is inserted:

‘Article 9b

Member States shall ensure that media service providers’ programmes and services may not be modified, for example through commercial overlays, without
their consent.’

Justification

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

Amendment 68

Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2010/13/EU
Article 10 – paragraph 1 – point b

Text proposed by the Commission
(b) they shall not directly encourage the purchase or rental of goods or services;,

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

Amendment 69

Proposal for a directive
Article 1 – paragraph 1 – point 13
Directive 2010/13/EU
Article 11 – paragraph 2

Text proposed by the Commission
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.

Amendment
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.

Amendment 70

Proposal for a directive
Article 1 – paragraph 1 – point 13
Directive 2010/13/EU
Article 11 – paragraph 3 – point b

Text proposed by the Commission
(b) they shall not directly encourage

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

Amendment 71

Proposal for a directive
Article 1 – paragraph 1 – point 14
Directive 2010/13/EU
Article 12 – paragraph 1

Text proposed by the Commission

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.

Amendment

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, such as advertising for alcoholic beverages or gambling, 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.

Amendment 72

Proposal for a directive
Article 1 – paragraph 1 – point 14
Directive 2010/13/EU
Article 12 – paragraph 2

Text proposed by the Commission

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

Amendment

The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures, such as encryption and effective parental controls, together with the measures referred to in paragraph 1;
Amendment 73

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, where practical and by appropriate means, providers of on-demand audiovisual media services under their jurisdiction provide at least a 20% share of European works in their catalogue. Any financial contribution shall comply with Union law, in particular with State aid rules, and shall not negatively affect consumers.

Amendment 74

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.

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, including via direct investment in content and contributions to national funds.
Member States. Any financial contribution shall comply with Union law, in particular with State aid rules.

Amendment 75

Proposal for a directive
Article 1 – paragraph 1 – point 15
Directive 2010/12/EU
Article 13 – paragraph 4a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall ensure adequate and geographically-diversified funding under the Creative Europe Media programme to support the circulation of creative content across borders, including improvement of the digital distribution of European audiovisual works and the development of innovative financing models for creative content.

Amendment 76

Proposal for a directive
Article 1 – paragraph 1 – point 15 a (new)
Directive 2010/13/EU
Article 14 – paragraph 1

Present text

Amendment

(15a) Article 14, paragraph 1 is amended as follows:

‘1. Each Member State may take measures in accordance with Union law to ensure that broadcasters under its jurisdiction do not broadcast on an exclusive basis events which are regarded by that Member State as being of major importance for society in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following such events by live coverage or deferred coverage on free television. If it does so, the Member State

Member States shall also
concerned shall draw up a list of designated events, national or non-national, which it considers to be of major importance for society. It shall do so in a clear and transparent manner in due time. In so doing the Member State concerned shall also determine whether these events should be available by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.’

require broadcasters under their jurisdiction to broadcast these events of major importance for society in an accessible way for those with functional limitations, including persons with disabilities. If it does so, the Member State concerned shall draw up a list of designated events, national or non-national, which it considers to be of major importance for society. It shall do so in a clear and transparent manner in due time. In so doing the Member State concerned shall also determine whether these events should be available by whole or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage.’

Justification

Amendment linked to the re-introduction of accessibility requirements in Article 7

Amendment 77

Proposal for a directive

Article 1 – paragraph 1 – point 16

Directive 2010/13/EU

Article 20 – paragraph 2

Text proposed by the Commission

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

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. No television advertising or teleshopping shall be inserted during religious services or during children's programmes.
Amendment 78

Proposal for a directive
Article 1 – paragraph 1 – point 16 a (new)
Directive 2010/13/EU
Article 22

Present text

‘Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

(a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;

(b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;

(c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;

(d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

(e) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;

(f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

Amendment

(16a) Article 22 is amended as follows:

‘Television advertising and teleshopping for alcoholic and high caffeine content beverages shall comply with the following criteria:

(a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;

(b) it shall not link the consumption of alcohol or high caffeine content to enhanced physical performance or to driving;

(c) it shall not create the impression that the consumption of alcohol or high caffeine content contributes towards social or sexual success;

(d) it shall not claim that alcohol or high caffeine content has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;

(e) it shall not encourage immoderate consumption of alcohol or high caffeine content or present abstinence or moderation in a negative light;

(f) it shall not place emphasis on high alcoholic content or high caffeine content as being a positive quality of the beverages.

Justification

Limit on the advertising of energy drinks
Amendment 79

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 within a given clock hour shall not exceed 20 %.

Amendment 80

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**

Deleted.

Amendment 81

Proposal for a directive
Article 1 – paragraph 1 – point 18

**Text proposed by the Commission**

(18) Chapter VIII is deleted;

**Amendment**

Deleted.

**Justification**

This amendment aims at restoring Art 27 of directive 2010/13/EU, which contains important measures with regard to protection of minors in television broadcasting.

PE587.655v03-00 150/237 RR\1125609EN.docx
Amendment 82

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

Text proposed by the Commission

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 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.

2. 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.

Those measures shall consist of, as appropriate:

(a) defining and applying in the terms and conditions of the video-sharing

Amendment

1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, Member States shall encourage and ensure that video-sharing platform providers take appropriate measures to:

(a) protect all minors from content which may impair their physical, mental or development;
(b) protect all citizens from content containing 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 or belief, disability, descent or national or ethnic or social origin, genetic features, language, political or any other opinion, membership of a national minority, property, birth, age or sexual orientation;
(ba) limit the exposure of children to advertising of unhealthy foods and beverages in video sharing platforms.

2. Measures may consist of, as appropriate:

(a) setting out the rights and duties of users and defining,
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).

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 development of minors, in accordance with Articles 6 and 12 respectively and the guidelines issued by the Member States as referred to in paragraph 4:

(b) establishing and operating user-friendly 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, or other technical measures, for users of video-sharing platforms with respect to known content which may impair the physical and mental 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 and mental development of minors;

(f) establishing and operating transparent, easy to use and effective systems and procedures through which providers of video-sharing platforms handle and resolve issues raised by users of video-sharing platforms and communicate, as appropriate, what effect has been given to the implementation of the measures referred to in points (a) to (f).

Member States shall encourage video-sharing platforms, acting upon obtained knowledge or awareness of illegal content, to act expeditiously to remove or disable access to that content in line with Directive 2000/31/EC;
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, the protection of freedom of expression and information.**

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).

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.

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 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.

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 opinion on the drafts, amendments or extensions of those codes of conduct. The Commission may give appropriate publicity to those codes of conduct.

Amendment 83

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

Text proposed by the Commission

Member States shall ensure that video-sharing platform providers which are not established on their territory, but which have either a parent company or a subsidiary that is established on their territory or which are part of a group and another entity of that group is established on their territory, are deemed to have been established on their territory for the purposes of Article 3(1) of Directive 2000/31/EEC.

Amendment

Member States shall ensure that video-sharing platform providers
(a) which are not established on their territory, but which have either a parent company or a subsidiary that is established on their territory or which are part of a group and another entity of that group is established on their territory.

(b) which are established in another Member State but target audiences on their territory, are deemed to be established on their territory for the purposes of Article 3(1) of Directive 2000/31/EEC.

Amendment 84

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

Text proposed by the Commission

For the purposes of applying the second subparagraph, where there are several subsidiaries each of which are established in different Member States, or where there are several other entities of the group each of which are established in different Member States, the Member States concerned shall ensure that the provider designates in which of these Member States it shall be deemed to have been established.

Amendment

For the purposes of applying the second subparagraph, where there are several subsidiaries each of which are established in different Member States, or where there are several other entities of the group each of which are established in different Member States, they shall be deemed to have been established in the Member State where the majority of the workforce operates.

Justification

Giving video-sharing platforms the ability to choose the Member State in which they are deemed to be established under this directive would be disproportionate as it would allow forum-shopping practices. The localisation of the majority workforce is a clear and reliable criteria to determine where the platform is established in the Union.

Amendment 85

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 have been established on their territory and the criteria, set out in Article 3(1) 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 86

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28b – 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 of receipt of the request.

Amendment

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 of receipt of the 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 87

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 88

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 4 a (new)

Text proposed by the Commission

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

Amendment

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 6

Text proposed by the Commission

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 actively participate in and contribute to ERGA.

Amendment

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 sufficient financial and human resources to enable them to carry out the task assigned to them and to actively participate in and contribute to ERGA.
Amendment 90

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30a – paragraph 3 – point d

*Text proposed by the Commission*

(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;

*Amendment*

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

Amendment 91

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30a – paragraph 3 – point e

*Text proposed by the Commission*

(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."

*Amendment*

(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, incitement to hatred, *media pluralism, protection of the freedom of expression and information.*";
**PROCEDURE – COMMITTEE ASKED FOR OPINION**

<table>
<thead>
<tr>
<th><strong>Title</strong></th>
<th>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</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>References</strong></td>
<td>COM(2016)0287 – C8-0193/2016 – 2016/0151(COD)</td>
</tr>
<tr>
<td><strong>Committee responsible</strong></td>
<td>CULT 9.6.2016</td>
</tr>
<tr>
<td><strong>Date announced in plenary</strong></td>
<td>9.6.2016</td>
</tr>
<tr>
<td><strong>Date announced in plenary</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Rapporteur</strong></td>
<td>Emma McClarkin 17.6.2016</td>
</tr>
<tr>
<td><strong>Date appointed</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Date adopted</strong></td>
<td>5.12.2016</td>
</tr>
</tbody>
</table>
| **Result of final vote** | +: 24  
-: 3  
0: 2 |
| **Members present for the final vote** | Dita Charanzová, Carlos Coelho, Sergio Gaetano Cofferati, Anna Maria Corazza Bildt, Daniel Dalton, Dennis de Jong, Pascal Durand, Vicky Ford, Evelyne Gebhardt, Maria Grapini, Liisa Jaakonsaari, Philippe Juvin, Antonio López-Istúriz White, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler, Róża Gräfin von Thun und Hohenstein, Marco Zullo |
| **Substitutes present for the final vote** | Jussi Halla-aho, Anna Hedh, Kaja Kallas, Emma McClarkin, Roberta Metsola, Julia Reda |
| **Substitutes under Rule 200(2) present for the final vote** | Andrejs Manikins, Andrey Novakov, Tonino Picula, Traian Ungureanu |
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Culture and Education


Rapporteur: Daniel Buda

SHORT JUSTIFICATION

The proposal for a directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities seeks to modernise the audiovisual media landscape and to bring it up to speed with the market, consumption and technological changes. The constantly increasing convergence between television and services distributed via the internet and new emerging business models such as video-on-demand and user-generated content call for the re-examination of the scope of application of the AVMSD, as well as of the nature of the rules that are applicable to all market players, including the rules on the protection of minors and on advertising.

As such, this proposal forms part of the Digital Single Market strategy adopted on 6 May 2016, and builds on the findings of the REFIT evaluation envisaged in the Commission’s 2015 work programme. This updated legal framework shall ensure a balance between competitiveness and consumer protection, facilitate access to online content services and guarantee an adequate and uniform level of protection, especially of minors and citizens from harmful content and hate speech on the internet.

Specifically, the primary objectives of the proposal are centred on three main problematic issues: a) the protection of minors and consumers on video-sharing platforms; b) the promotion of a level playing field between traditional broadcasters and on-demand audiovisual media services and video-sharing platforms; and c) simplification of the overall legislative framework through clearer and more flexible rules on commercial communications.

AVMSD currently covers broadcasters and certain on-demand video services and requires
Member States to impose minimum rules for the regulation of audio-visual media services in specific coordinated fields. In doing so, it establishes the country of origin principle for the regulation of media services within its scope of application, with certain exceptions to avoid abuses. The new proposal seeks to bring video-sharing platforms within its scope of application, also imposing new obligations on on-demand services.

The proposal provides for alignment of the standards of protection of minors from programmes that may impair their physical, mental or moral development for TV broadcasting and on-demand services. The proposal also introduces quantitative quotas to ensure that on-demand services promote EU content as well as the possibility for Member States to impose financial obligations on on-demand services in their jurisdictions and, under certain circumstances, on services established in a different Member States so long as they are targeting their national audiences, thus creating more level playing field. It also introduces more flexibility for all audio-visual media services, including for TV broadcasting, regarding product placement and sponsorship, thus achieving a balance between competitiveness and consumer protection. Finally, the proposal brings within its regulatory scope video-sharing platform services, which do not have editorial responsibility for the content they store, but which organise that content, imposing rules on protection of minors from harmful content and of all citizens from hate speech.

Your rapporteur is of the opinion that this proposal should also aim at ensuring effective enforcement of intellectual property rights. In this context, producing and promoting European works represents an important goal and cultural diversity in Europe could be safeguarded by ensuring a high level of copyright protection, guaranteeing authors’ and right holders’ fair remuneration as well as by encouraging investments in cultural and creative sectors. In this sense, both the principle of territoriality and also the value created by exclusive rights are important elements for the success of the audio-visual sector, and for its financial sustainability, taking into account the small and medium-sized Member States’ characteristics and specific interests and also their cultural background and diversity.

Your Rapporteur considers that the new rules introduced by the amending proposal should also ensure compliance with Union Law, ensuring, inter alia, respect for European citizens’ fundamental rights, for the principle of proportionality and for transparency.

Moreover, as far as measures against harmful content and hate speech are concerned, it must be taken into account that freedom of speech and of expression is a fundamental right, which should not be used as an excuse to cover up these practices.

In the context of the extension of the regulatory scope of the Directive 2010/13/EU, your Rapporteur stresses the need and importance of aligning linear and nonlinear audio-visual media services. The rights and obligations of the traditional services should be aligned with those of the new media players; this aspect should be fully incorporated in the review process of the AVMSD.

In conclusion, your Rapporteur welcomes the Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services in view of changing market realities and proposes the following amendments in order to reinforce the audio-visual media sector’s role in all areas: economic, social and cultural:
AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Culture and Education, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The last substantive amendment to Directive 89/552/EEC of the Council, later codified by Directive 2010/13/EU of the European Parliament and of the Council, 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.

Amendment

(1) The last substantive amendment to Directive 89/552/EEC of the Council, later codified by Directive 2010/13/EU of the European Parliament and of the Council, 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 owing to the gradual convergence between television and internet services. 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. An updated legal framework is therefore required in order to reflect developments in the market and to achieve a balance between access to online content services and consumer protection and competitiveness.
Amendment 2

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 reliable facts. The European Regulators

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 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 reliable facts. The Commission should be
Group for Audiovisual Media Services (ERGA) should therefore be empowered to provide opinions on jurisdiction upon the Commission's request.

Amendment 3
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\textsuperscript{31}, 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\textsuperscript{32}. 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 codes. 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 this Directive.

Amendment

(7) In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda\textsuperscript{31}, the Commission stressed that when considering policy solutions, it will consider both regulatory and non-binding opinions on jurisdiction in order to facilitate coordination with the law of the Member States. Member States should ensure the enforcement of self-regulatory or co-regulatory codes. It is equally important that the codes establish specific targets and objectives allowing for the regular, efficient, 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 this Directive.


Amendment 4

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 give certainty to Union citizens, businesses and Member States' authorities, the notion of "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". This should include aligning the grounds on which incitement to violence or hatred is based.

Amendment 5

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

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 all necessary information about content that may impair minors' physical, mental or moral development. This could be done,
instance, through a system of content descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical or acoustic means.

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 and, where possible, comply with available local systems of rating of descriptors.

Amendment 6
Proposal for a directive
Recital 9 a (new)

_Text proposed by the Commission_

(9a) 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 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 disability by 2027. The accessibility requirements should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent complete accessibility, such as programmes or events broadcast in real time.

Amendment 7
Proposal for a directive
Recital 11

_Text proposed by the Commission_

(11) Similarly, Member States should be encouraged to ensure that self-and co-regulatory codes of conduct are used to effectively limit the exposure of children and minors to audiovisual commercial communications.
communications for alcoholic beverages. Certain co-regulatory or self-regulatory systems exist at Union and national level in order to market responsibly alcoholic beverages, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.

Amendment 8
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 more flexibility and greater clarity with regard to, in particular, existing rules on increasing competitiveness, on providing a real level playing field for audiovisual commercial communications and on 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 9
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

Amendment

(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 10

Proposal for a directive
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, subject to exceptions, as it can create additional income for audiovisual media service providers.

Amendment 11

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) As the increase in the number of new services has led to a greater choice for viewers, broadcasters are given greater

Amendment

(18) Even though the increase in the number of new services has led to a greater choice for viewers, it remains necessary to
flexibility with regard to the insertion of advertising and teleshopping spots where this does not unduly impair the integrity of programme. Yet, in order to safeguard the specific character of the European television landscape, interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection should remain limited.

continue to protect the integrity of programmes and consumers from disproportionately frequent advertising and teleshopping spots. Therefore, in order to safeguard the specific character of the European television landscape, interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection should remain limited and not be subject to further flexibility.

Justification

It is important to underline the importance of maintaining the 30 min rule between advertising interruptions for cinematic works, as it would disproportionately affect the programmes’ integrity and does not correspond to the consumer habits, nor to an imperative need for the audiovisual media services.

Amendment 12

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.

Justification

This amendment seeks to delete the Commission proposal to remove the current 20% per clock hour approach to commercial communication. The current system offered by Directive 2010/13/EU is effective and allows revenue to be generated and reinvested in quality content, whilst avoiding the saturation of peak hours with adverts, which could be detrimental to consumers. See also justification for amendment to Recital 13.
Amendment 13

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.

Amendment

(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring, by appropriate means, that their catalogues contain a minimum amount of a variety of European works and that those are given enough prominence. In preserving and promoting European production and cultural diversity, the principles of territoriality and of the country of origin should be respected.

Amendment 14

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. 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 citizens and, in particular, minors from harmful content and from content containing incitement to violence or hatred, to set out common and proportionate rules on those matters, without undermining in any way the fundamental right to freedom of expression and without prejudice to Directive 2000/31/EC of the European Parliament and of the Council.\(^{1a}\)

\(^{1a}\) Directive 2000/31/EC of the European Parliament and of the Council of 8 June

Amendment 15

Proposal for a directive

Recital 27

Text proposed by the Commission


Amendment

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 applicable to communications concerning e-cigarettes and refill containers pursuant to Directive 2014/40/EU of the European Parliament and of the Council, ensure that consumers are sufficiently protected and should be applied to all audiovisual media. The measures set out in this Directive therefore complement those set out in Directives 2005/29/EC, 2003/33/EC and 2014/40/EU.

Amendment 16

Proposal for a directive

Recital 30

Text proposed by the Commission

(30) It is appropriate to involve the video-sharing platform providers as much

Amendment

(30) It is appropriate to involve the video-sharing platform providers actively
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 such 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.


Amendment 17

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) The video-sharing platform providers covered by this Directive provide information society services within the meaning of point (a) of Article 2 of

Amendment

(32) Video-sharing platform providers 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.

**Amendment 18**

**Proposal for a directive**

**Recital 32 a (new)**

_text proposed by the Commission_

(32a) _This Directive, in line with the Charter of Fundamental Rights of the European Union and, in particular, Article 11 thereof, aims at enshrining the independence of audiovisual media regulators into Union law by ensuring that such regulators are legally distinct and functionally independent from the industry and government, in that they neither seek nor take instructions from the industry or any government, operate in a transparent and accountable manner_
as set out in law, and have sufficient powers.

Amendment 19
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) Regulatory authorities of the Member States can achieve the requisite degree of structural independence only if established as legal entities separate from the government. 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 their independence and thus 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 20
Proposal for a directive
Recital 36

Text proposed by the Commission

(36) ERGA has made a positive

Amendment

(36) The 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 21**

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 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 may 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 rules and 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, in order to facilitate coordination with the law of the Member States.
Amendment 22

Proposal for a directive
Recital 38

Text proposed by the Commission

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 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

(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure adequate and non-discriminatory discoverability and accessibility of content of general interest under defined general interest objectives such as guarant ing media independence and pluralism, freedom of speech and expression, intellectual property rights, 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, taking into account the application of the principle of proportionality.

Amendment 23

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

Text proposed by the Commission

'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 an audiovisual work containing 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 24

Proposal for a directive

PE587.655v03-00 176/237 RR\1125609EN.docx
Article 1 – point 3 – point b
Directive 2010/13/EU
Article 2 – paragraph 5a

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 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. In accordance with the principle of transparency, the Commission shall make the list referred to in this paragraph publicly accessible.

Amendment 25
Proposal for a directive
Article 1 – point 4
Directive 2010/13/EU
Article 3 – paragraph 4 – subparagraph 2

Text proposed by the Commission
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.

Amendment
Where the Commission considers the notification as incomplete, it shall, without undue delay, request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.

Amendment 26
Proposal for a directive
Article 1 – point 4
Directive 2010/13/EU
Article 3 – paragraph 4 – subparagraph 3
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.

Amendment 27

Proposal for a directive
Article 1 – point 5 – point a
Directive 2010/13/EU
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

1a. Member States shall inform the Commission, the regulatory authorities of other Member States and the ERGA about more detailed or stricter rules adopted in accordance with paragraph 1.

Amendment

(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

(c) the Commission has decided, after having consulted the contact committee established pursuant to Article 29, 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. paragraphs 1 and 3 are correctly founded.

**Amendment 29**

**Proposal for a directive**

**Article 1 – point 5 – point c**

Directive 2010/13/EU

**Article 4 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

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;

*Amendment*

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 as to whether or not the measures taken by the Member State in accordance with paragraph 3 are compatible 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;

**Amendment 30**

**Proposal for a directive**

**Article 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 incitement to violence, terrorist acts or hatred directed against a group of persons or a member of such a group defined by reference to sex, race, colour, ethnic or social origin, language, religion, belief, opinion, disability, age or sexual orientation;
Amendment 31

Proposal for a directive
Article 1 – point 9
Directive 2010/13/EU
Article 6a – paragraph 3

Text proposed by the Commission

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.

Amendment

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

Amendment 32

Proposal for a directive
Article 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:

1. "Member States shall encourage self-regulatory and co-regulatory codes of conduct to ensure that media service providers under their jurisdiction make their services progressively more accessible to people with a visual or hearing disability and shall aim for complete accessibility by the end of 2022. The Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a periodic report on the application of this provision, every three years after the entry into force of this Directive.

2. The Commission and the ERGA shall facilitate the exchange of best practices between audiovisual media service providers."
3. Such codes of conduct, as 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 visual and/or hearing disabilities. Member States shall ensure that this information is made publicly available.

4. Such codes of conduct shall encourage audiovisual media service providers to develop, and make publicly available, accessibility action plans made in respect of progressively making their services more accessible to persons with visual and/or hearing disabilities. Such action plans shall be communicated to national regulatory authorities.

Amendment 33

Proposal for a directive
Article 1 – point 11 – point a
Directive 2010/13/EU
Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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 reasonable expectation of 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.
Amendment 34

Proposal for a directive
Article 1 – point 11 – point a
Directive 2010/13/EU
Article 9 – paragraph 2 – subparagraph 3

Text proposed by the Commission
The Commission and ERGA shall encourage the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.

Amendment
The Commission and ERGA shall support the exchange of best practices on self- and co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct.

Amendment 35

Proposal for a directive
Article 1 – point 11 – point b
Directive 2010/13/EU
Article 9 – paragraph 3

Text proposed by the Commission
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.

Amendment
3. Member States and the Commission shall encourage the development of self-regulation and co-regulation regarding inappropriate audiovisual commercial communications for alcoholic products. Such self-regulation and co-regulation should be used to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic products, for example by prohibiting commercial communications for alcoholic products during times when children are most likely to be exposed to audiovisual media services.

Amendment 36

Proposal for a directive
Article 1 – point 11 a (new)
Directive 2010/13/EU
Article 9 a (new)
Text proposed by the Commission

(11a) The following article is inserted:

"Article 9a

Member States may take appropriate measures to ensure adequate discoverability and accessibility of audiovisual media services of general interest. These measures shall be proportionate and meet general objectives such as media independence and pluralism, freedom of speech and information and cultural diversity and shall be clearly defined by Member States in accordance with Union law. Member States may require providers of audiovisual media services which target audiences in their territories but are established in another Member State to comply with those measures."

Amendment 37

Proposal for a directive

Article 1 – point 13
Directive 2010/13/EU
Article 11 – paragraph 2

Text proposed by the Commission

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.

Amendment

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 reasonable expectation of a significant children's audience.

Amendment 38

Proposal for a directive

Article 1 – point 13
Directive 2010/13/EU
Article 11 – paragraph 3 – subparagraph 2
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.

Amendment 39

Proposal for a directive
Article 1 – point 14
Directive 2010/13/UE
Article 12 – subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 40

Proposal for a directive
Article 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 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

5. Member States may waive the requirements laid down in paragraphs 1 and 2 for providers with a particularly low turnover or audience, in particular in comparison with competitors within the targeted market, 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, insofar as such a waiver would not
disproportionately distort competition in the targeted market;

Amendment 41

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

Text proposed by the Commission

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

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;

Amendment 42

Proposal for a directive
Article 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 proportion of television advertising spots and teleshopping spots within a given clock hour between 7:00 and 23:00 shall not exceed 20 %.

Amendment 43

Proposal for a directive
Article 1 – point 17
Directive 2010/13/EU
Article 23 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

An exception to the daily proportion of television advertising spots and teleshopping spots referred to in
paragraph 1 may be made where a Member State and media service providers under its jurisdiction establish a framework whereby a certain number of hours are defined as "prime time" hours. During these prime time hours the proportion of commercial communication shall not exceed 20% and shall not be restricted to each specific clock hour.

Amendment 44

Proposal for a directive
Article 1 – point 17
Directive 2010/13/EU
Article 23 – paragraph 1 – subparagraph 1 b (new)

Text proposed by the Commission Amendment

During prime time hours, Member States shall be able to take concrete measures against audiovisual commercial communications for alcoholic products in order to protect, in particular, vulnerable viewers and minors. Such measures may consist of prohibiting audiovisual commercial communications during prime time hours.

Amendment 45

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

Text proposed by the Commission Amendment

(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;

(a) announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes;
Justification

Allowing media groups to freely make announcement within all the broadcasters they own in connection to the programmes of the owned broadcasters would be detrimental to a fair competition in the sector as it would give an undue advantage to the dominant actors. It would also lead to an unnecessary increased in the amount of advertising as these announcement would be excluded from the quantitative rules.

Amendment 46

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

Text proposed by the Commission
(c) product placements

Amendment
(c) product placements which do not conflict with Article 11(4).

Amendment 47

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

Text proposed by the Commission
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:

Amendment
1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, the Commission and Member States shall ensure that video-sharing platform providers take appropriate measures to:

Amendment 48

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

Text proposed by the Commission
(b) protect all citizens from content containing incitement to violence or hatred

Amendment
(b) protect all citizens from content containing incitement to violence, terrorist
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.

acts or hatred directed against a group of persons or a member of such a group defined by reference to sex, race, colour, ethnic or social origin, language, religion, belief, opinion, disability, age or sexual orientation;

Amendment 49

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

Text proposed by the Commission

(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;

Amendment

(a) defining and applying in the terms and conditions of the video-sharing platform providers the concepts of incitement to the commission of terrorist acts or any other form of 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;

Amendment 50

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

Text proposed by the Commission

(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;

Amendment

(b) establishing and operating transparent 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;

Amendment 51

Proposal for a directive

PE587.655v03-00 188/237 RR\1125609EN.docx
Article 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 4

Text proposed by the Commission

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.

Amendment

4. Member States shall establish the necessary mechanisms to assess and report on the necessity, effectiveness, appropriateness and proportionality 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.

Amendment 52

Proposal for a directive
Article 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 5

Text proposed by the Commission

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 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.

Amendment

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 respect to illegal content, provided that any measure taken, for the purposes of this Directive, to restrict the online distribution, or otherwise making available, of illegal content to the public is in line with the Charter of Fundamental Rights of the European Union, is limited to what is necessary and proportionate and taken on the basis of a prior judicial authorisation. 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.
Amendment 53

Proposal for a directive
Article 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 7

Text proposed by the Commission

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.

Amendment

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

Amendment 54

Proposal for a directive
Article 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 8

Text proposed by the Commission

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 opinion on the drafts, amendments or extensions of those codes of conduct. The Commission may give appropriate publicity to those codes of conduct.

Amendment

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. With due regard for the principle of transparency, the Commission shall give appropriate publicity to those codes of conduct.

Amendment 55

Proposal for a directive
Article 1 – point 19
Directive 2010/13/EU
Article 28 b – paragraph 1
For the purposes of applying the second subparagraph, where there are several subsidiaries each of which are established in different Member States, or where there are several other entities of the group each of which are established in different Member States, the Member States concerned shall ensure that the provider designates in which of these Member States it shall be deemed to have been established.

Justification

Giving video-sharing platforms the ability to choose the Member State in which they are deemed to be established under this directive would be disproportionate as it would allow forum-shopping practices. The localisation of the majority workforce is a clear and reliable criteria to determine where the platform is established in the Union.

Amendment 56

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

For the purposes of applying the second subparagraph, where there are several subsidiaries each of which are established in different Member States, or where there are several other entities of the group each of which are established in different Member States, the provider shall be deemed to have been established in the Member State where the majority of the workforce operates.

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 57

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

Text proposed by the Commission

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.

Amendment

1. Each Member State shall designate one or more independent national regulatory authorities. Member States shall ensure that these authorities are transparent, legally distinct and functionally independent from the government or 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.

Amendment 58

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

Text proposed by the Commission

1a. Member States shall ensure that the nomination process of the Head of a national regulatory authority or the members of the collegiate body fulfilling that function within a national regulatory authority is transparent and guarantees the requisite degree of independence for the fulfilment of its functions.

Amendment

1a. Member States shall ensure that the nomination process of the Head of a national regulatory authority or the members of the collegiate body fulfilling that function within a national regulatory authority is transparent and guarantees the requisite degree of independence for the fulfilment of its functions.

Amendment 59

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

PE587.655v03-00  192/237  RR\1125609EN.docx
Article 30 – paragraph 2 – subparagraph 1

**Text proposed by the Commission**

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**

Member States shall ensure that national regulatory authorities exercise their powers *independently*, impartially and transparently and in accordance with the objectives of this Directive, *regarding* media *independence and pluralism, non-discrimination*, cultural diversity, consumer protection, and the promotion of fair competition *in the internal market*.

**Amendment 60**

**Proposal for a directive**

**Article 1 – point 21**

Directive 2010/13/EU

Article 30 – paragraph 2 – subparagraph 2

**Text proposed by the Commission**

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.

**Amendment**

National regulatory authorities shall not seek or take instructions from any other body, *public or private*, 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.

**Amendment 61**

**Proposal for a directive**

**Article 1 – point 21**

Directive 2010/13/EU

Article 30 – paragraph 4

**Text proposed by the Commission**

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

**Amendment**

4. Member States shall ensure that national regulatory authorities have adequate *experience and enforcement* powers to carry out their functions effectively, *in accordance with this*
Amendment 62

Proposal for a directive
Article 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 5

*Text proposed by the Commission*

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.

*Amendment*

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 *duly justified* dismissal decision shall be made public and a statement of reasons shall be made available to the public.

Amendment 63

Proposal for a directive
Article 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 6

*Text proposed by the Commission*

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 actively participate in and contribute to ERGA.

*Amendment*

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 actively participate in and contribute *effectively to the tasks carried out by the ERGA under this Directive*.
<table>
<thead>
<tr>
<th><strong>PROCEDURE – COMMITTEE ASKED FOR OPINION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title</strong></td>
</tr>
<tr>
<td><strong>References</strong></td>
</tr>
<tr>
<td><strong>Committee responsible</strong></td>
</tr>
<tr>
<td><strong>Date announced in plenary</strong></td>
</tr>
<tr>
<td><strong>Opinion by</strong></td>
</tr>
<tr>
<td><strong>Date announced in plenary</strong></td>
</tr>
<tr>
<td><strong>Rapporteur</strong></td>
</tr>
<tr>
<td><strong>Date appointed</strong></td>
</tr>
<tr>
<td><strong>Discussed in committee</strong></td>
</tr>
<tr>
<td><strong>Date adopted</strong></td>
</tr>
<tr>
<td><strong>Result of final vote</strong></td>
</tr>
<tr>
<td><strong>Members present for the final vote</strong></td>
</tr>
<tr>
<td><strong>Substitutes present for the final vote</strong></td>
</tr>
<tr>
<td><strong>Substitutes under Rule 200(2) present for the final vote</strong></td>
</tr>
</tbody>
</table>

RR\1125609EN.docx  195/237  PE587.655v03-00
OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Culture and Education


Rapporteur: Angelika Mlinar

SHORT JUSTIFICATION

A new legislative proposal amending the Audiovisual media services directive (AVMSD) was adopted by the European Commission on 25 May 2016. The new proposal responds to the need to update the legislation to technical evolution and also to consumers’ needs and enlarges the material scope to video sharing platforms for the purpose of combatting hate speech and dissemination of harmful content to minors.

The Rapporteur welcomes those provisions but believes that whilst a 'level playing field' should be created, differences between broadcasters and video sharing platforms should be taken into account and that the implementation of the future legal framework should ensure that freedom of expression and information is optimally protected in a fast-evolving media landscape.

The LIBE Committee was not involved in the adoption of the previous directive since the decision making process started prior to the entry into force of the Lisbon Treaty, consequently the Charter of Fundamental Rights didn't have the same legal status as the Treaties. Furthermore, the LIBE committee has exclusive competence on any measure related to judicial cooperation in criminal matters and in particular, on the criminal law response to racism, xenophobia and hate speech.

The Rapporteur focused her work on five areas with the objectives of strengthening the fundamental rights related provisions, maintaining the highest degree of impartiality and independence of the media and avoiding arbitrariness.

Approach towards hate speech and incitement to violence or hatred

In order to protect citizens from harmful content and content containing incitement to violence
or hatred hosted on video-sharing platforms, but also to protect and guarantee users’ fundamental rights, it is essential to set out common and proportionate rules on those matters as well as European guidelines. Such rules should further define the characteristics of “harmful content” and “incitement to violence and hatred”, taking into account the intention and effect of such content at the European level.

The Commission proposal refers to the grounds on which incitement to violence or hatred is based from 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. However, this Framework Decision doesn’t cover all grounds that are subsequently included in the Commission proposal. An alignment with the grounds included in Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime would guarantee a better level of protection against incitement to hatred which further aims at specifying the characteristics of “publicly inciting to violence or hatred”. However, those grounds alone are not meant to be used to restrict the making available of audio-visual content.

Protecting minors from harmful content
The Rapporteur is of the opinion that to effectively implement measures to protect minors from harmful content such as pornographic content, it is essential to adopt effective prevention measures.

The Rapporteur also believes that it is of utmost importance to ensure through this Directive review that measures implemented by Member States to protect minors from content that may impair their physical or mental development are necessary and proportionate and fully respect the obligations of the Charter of Fundamental Rights. Recent developments at Member State level have shown that the protection of minors can be used excessively as a ground to restrict the diffusion of audio-visual content aiming at combating discrimination based on gender or sexual orientation. It is therefore essential, taking into account Article 52 of the Charter, to ensure that equality and non-discrimination are upheld and not undermined by excessive measures of protection of minors from harmful content.

Due process in tackling illegal content
The Rapporteur believes that while Member States shall not be precluded from imposing stricter measures with respect to illegal content, for the purpose of this Directive, restricting the online distribution of illegal content to the public should always be in line with the Charter of Fundamental Rights, and should be limited to what is necessary and proportionate and executed on the basis of a prior judicial authorisation. Due process is key to ensuring that freedom of expression and information can be guaranteed effectively and avoid arbitrariness in decisions on content availability. The Rapporteur therefore recommends clarifying this element as part of the provision applying to video-sharing platform services, which should be subject to the same principle than “traditional” media when it comes to illegal content.

E-commerce Directive safeguards
The Rapporteur recommends to ensure that the provisions of the e-commerce Directive are not affected by measures applying to video-sharing platform services and the audiovisual media content they are hosting. Under article 15(1) of Directive 2000/31/EC Member States should not impose a general obligation on providers of transmission, storage and hosting services to monitor the information which they transmit or store, nor a general obligation to seek facts or
circumstances indicating illegal activity. In this regard, it is also important to include in the revision a reference to the CJEU, which in its Judgments C-360/10 and C-70/10, rejected measures for the 'active monitoring' of almost all users of the services concerned. Preserving such safeguards is also essential for a consistent application of the legal framework throughout the Union when it comes to video-sharing platform service providers’ obligations and liability.

### Independence of regulators at both European and national level

The directive, in line with the Charter of Fundamental Rights and in particular article 11, should aim at enshrining the independence of audiovisual media regulators into EU law by ensuring that they are legally distinct and functionally independent from the industry and governments and operate in a transparent and accountable manner and have sufficient powers.

The principle of independence of regulators, already well developed and implemented in other sectors of the European Acquis Communautaire, is pursued in the audiovisual sector by article 30 of the 2010/13/EU Directive on Audiovisual Media Services.

The European Regulatory Group for the Audiovisual (ERGA) was established in March, 2014, through the Commission Decision C(2014) 462 of 3.2.2014 as advisory body to the Commission. The Commission proposal formalises the role of ERGA as an independent, expert advisor to the Commission and as a forum for the exchange of experiences and best practices between the national regulators.

The Rapporteur welcomes the Commission approach and she believes that the regulatory body can achieve the relevant degree of structural independence from the government only if established as a separate legal entity.

### AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Culture and Education, as the committee responsible, to take into account the following amendments:

**Amendment 1**

**Proposal for a directive**

**Citation 1 a (new)**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Having regard to the Charter of Fundamental Rights of the European Union, and in particular Article 7, 10, 11, 21, 24, 26, 47 and 52 thereof,</td>
<td></td>
</tr>
</tbody>
</table>

**Justification**

LIBE AM 1 Mlinar with addition of Art. 47 (effective remedy)
Amendment 2
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 give legal certainty to 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", as well as those grounds not covered by Framework Decision 2008/913/JHA such as social origin, genetic features, language, 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. These 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 restricting the making available of audio-visual content. All circumstances, including intention, should be taken into account, and freedom of expression, in particular artistic, literary and journalistic expression, should be respected. Provisions concerning hate speech should be applied in line with the jurisprudence of the European Court of Human Rights concerning the right to freedom of expression and information.

Justification

Fifth the grounds also included in Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime would guarantee a better level of
protection against incitement to hatred. Such alignment aims at further specifying the characteristics of "publicly inciting to violence or hatred" but those grounds alone are not meant to be used to restrict the making available of audio-visual content.

Amendment 3
Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

(8a) In order to achieve a true digital single market, further efforts are needed in the field of improving media literacy among citizens. The Commission and the Member States should, therefore, strengthen their efforts to promote a true digital single market among all Union citizens, in particular children and minors, through initiatives and coordinated actions, in order to increase the understanding of audiovisual media services.

Amendment 4
Proposal for a directive
Recital 8 b (new)

Text proposed by the Commission

(8b) Member States are encouraged to take all the necessary measures to promote media education, which provides knowledge and skills and empowers citizens to exercise their right to freedom of expression, to analyse media content and to react to disinformation. In this regard, it is important to strengthen knowledge on all levels of the educational system and to encourage people to active citizenship and to develop their awareness as media consumers.
Amendment 5
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 content that may impair minors' physical or mental 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.

Justification

The use of the word ‘moral’ is ambiguous. Different Member States understand morality differently.

Amendment 6
Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

(9a) The demand for linear television channels in Europe remains prominent in comparison to other media services, as demonstrated by the study "Linear and on-demand audiovisual media services in Europe 2015", published by the European Audiovisual Observatory in June 2016, which shows an overall good condition of linear television in Europe, with the number of available linear television channels in 2015 increasing on average of 46% compared to 2009.

Amendment

(9a) The demand for linear television channels in Europe remains prominent in comparison to other media services, as demonstrated by the study "Linear and on-demand audiovisual media services in Europe 2015", published by the European Audiovisual Observatory in June 2016, which shows an overall good condition of linear television in Europe, with the number of available linear television channels in 2015 increasing on average of 46% compared to 2009.
Amendment 7

Proposal for a directive
Recital 9 b (new)

Text proposed by the Commission

(9b) The demand by young people for linear television channels has slightly decreased in Europe, as demonstrated by the study "Measurement of Fragmented Audiovisual Audiences", published by the European Audiovisual Observatory in November 2015, which shows in 2014 an average decrease in the Union of only 4 % of young people aged 12-34, compared to 2011.

Amendment 8

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, as well as channels and audiovisual programmes for 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 channels and audiovisual programmes for 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 9

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.

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, without affecting media pluralism.

Amendment 10

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, but 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 obligations of the Charter of Fundamental Rights of the European Union, in particular Article 52 thereof. National regulatory bodies or authorities should retain effective enforcement powers.

Amendment 11

Proposal for a directive
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) In accordance with Directive (EU) 2016/XXX [replace with reference to the Directive on combatting 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 when committed intentionally. Audiovisual media content distributed, or otherwise made available by any means, whether online or offline, to the public with the intent to incite the commission of a terrorist offence should therefore be treated as illegal content. Further to the obligations imposed on Member States to apply Directive (EU) 2016/xxx, cooperation between internet providers, Union agencies and national authorities is vital to combat these trends and elaborate positive counter-narratives.

Amendment 12

Proposal for a directive

PE587.655v03-00 204/237 RR\1125609EN.docx
Recital 26b (new)

*Text proposed by the Commission*

(26b) Cyberbullying is becoming increasingly common, especially among teenagers, and it can also take place on video-sharing platforms. Programmes should be put in place for the prevention of cyberbullying through anti-bullying campaigns and the promotion of online safety instruction on how to use the internet properly.

Amendment 13

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) An important share of the content *hosted* 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 or mental development and protect all users 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. These 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
restricting the making available of audio-visual content.

Justification

Framework Decision doesn’t cover all grounds that are subsequently included in the Commission proposal. An alignment with the grounds also included in Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime would guarantee a better level of protection against incitement to hatred. Such alignment aims at further specifying the characteristics of "publicly inciting to violence or hatred" but those grounds alone are not meant to be used to restrict the making available of audio-visual content.

Amendment 14

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 Council, 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’ involvement 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 Council, 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 judicial orders by national authorities in accordance with national legislation.

Amendment 15
Proposal for a directive

Recital 30

Text proposed by the Commission

(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 such 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\(^{35}\). It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.

Amendment

(30) It is appropriate to involve relevant stakeholders, including civil society organisations, and the video-sharing platform providers as much as possible when implementing the appropriate measures to be taken pursuant to this Directive. Transparent and accountable 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 such 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\(^{35}\). It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.

Amendment 16
Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

(30 a) Member States should ensure that any measure taken, for the purposes of this Directive, to restrict the online distribution, or otherwise making available, of illegal content to the public is in line with the Charter of Fundamental Rights, is limited to what is necessary and proportionate and is taken on the basis of a prior judicial authorisation.

Amendment 17
Proposal for a directive
Recital 31

Text proposed by the Commission

(31) When taking the necessary measures to protect minors from illegal, harmful, racist and xenophobic content and to protect all citizens from content containing incitement to violence or hatred in accordance with this Directive, the applicable fundamental rights, as laid down in the Charter on Fundamental Rights of the European Union, should be carefully balanced. That concerns in particular, as the case may be, the right to respect for private and family life and the protection of personal data, the freedom of expression and information, the freedom to
conduct a business, the prohibition of discrimination and the **right** of the child. and information, the freedom to conduct a business, the prohibition of discrimination and the **rights** of the child. **Member States** have a positive obligation to ensure that the balance of incentives for media service providers and video-sharing platform providers covered by this Directive is such that legal content, including content that can offend, shock or disturb, can be communicated. Similarly, age verification should only be required by law if necessary and proportionate and should be implemented in a way which offers the maximum protection of privacy.

Amendment 18
Proposal for a directive
Recital 31 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(31a)</strong> The 2011 EU Agenda for the Rights of the Child defines &quot;the Treaties, the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child (UNCRC) as a common basis for all EU action which is relevant to children&quot;. Articles 5 and 19 of the UNCRC are of particular relevance for the protection of children in audiovisual media services.</td>
<td></td>
</tr>
</tbody>
</table>

**Justification**

The importance of the UN Convention on the Rights of the Child for protection of minors in this sector should be underlined.

Amendment 19
Proposal for a directive
Recital 32

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(32)</strong> The video-sharing platform</td>
<td><strong>(32)</strong> The video-sharing platform</td>
</tr>
</tbody>
</table>

RR\1125609EN.docx 209/237 PE587.655v03-00
providers 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.

Amendment 20

Proposal for a directive
Recital 32 a (new)

Text proposed by the Commission

(32 a) Under Article 15(1) of Directive 2000/31/EC, Member States are not to impose a general obligation on providers of transmission, storage and hosting services to monitor the information which they transmit or store, nor a general obligation to actively seek facts or circumstances indicating illegal activity. In this regard, the Court of Justice of the
European Union (‘the Court’), in its Cases C-360/10\textsuperscript{1a} and C-70/10\textsuperscript{1b}, rejected measures for the ‘active monitoring’ of almost all users of the services concerned (internet access providers in one case and a social network in the other) and held that any injunction requiring a hosting service provider to undertake general monitoring is to be precluded.

\textsuperscript{1a} Judgment of the Court of Justice of 16 February 2012, Belgische Vereniging van Auteurs, Componisten en Uitgevers CVBA (SABAM) v Netlog NV, C-360/10, ECLI:EU:C:2012:85.

\textsuperscript{1b} Judgment of the Court of Justice of 24 November 2011, Scarlet Extended SA v Société belge des auteurs, compositeurs et éditeurs SCRL (SABAM), C-70/10, ECLI:EU:C:2011:771.

Justification

In line with Directive 2000/31 EC and the European Court of Justice judgements in cases C-360/10 and C-70/10.

Amendment 21

Proposal for a directive
Recital 32 b (new)

\begin{flushleft}
\textit{Text proposed by the Commission}
\end{flushleft}

\begin{flushright}
\textit{Amendment}
\end{flushright}

\textbf{(32 b)} This Directive, in line with the Charter of Fundamental Rights of the European Union, in particular Article 11 thereof, aims to enshrine the independence of audiovisual media regulators into Union law by ensuring that they are legally distinct and functionally independent from the industry and government in that they neither seek nor take instructions from any body, they operate in a transparent and accountable manner as set out in a law and they have sufficient powers.
Amendment 22

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) Regulatory authorities of the Member States *should* achieve the requisite degree of independence *by being* established as separate legal entities. Member States should therefore guarantee the independence of the national regulatory *bodies or* 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 *bodies or* authorities should be in possession of *full* enforcement powers and resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of national regulatory *bodies or* authorities established under this Directive should *be transparent and should* ensure respect for the objectives of media pluralism, cultural diversity, consumer protection *and non-discrimination*, the internal market and the promotion of fair competition.

Amendment 23

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

*Amendment*

(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\(^{36}\). 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 24**

Proposal for a directive
Recital 35 a (new)

_text proposed by the Commission_

(35 a) This Directive formalises the role of the ERGA as an independent, expert advisor to the Commission and as a forum for the exchange of experiences and best practices between the national regulatory bodies or authorities. The ERGA is entrusted with a specific advisory role with regard to issues of jurisdiction and the issuing of opinions on Union codes of conduct based on co-regulation.

**Amendment 25**

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 26**

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 rules and 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 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 rules and codes of conduct in the area of protection of minors, **racism**, xenophobia and hate speech as well as audiovisual commercial communications for foods high in fat, salt/sodium and sugars.

**Amendment 27**

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

*Amendment*

(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure access to and appropriate prominence of content of general interest under defined general interest objectives. Such obligations should
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 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.

Justification

The concept of "discoverability" is very unclear.

Amendment 28
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 the right to freedom of expression, the right 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.

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 of Fundamental Rights of the European Union. In particular, Member States should ensure that no measure adopted for the transposition of this Directive directly or indirectly undermines the right to freedom of expression, the right 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.
Text proposed by the Commission

(39 a) Where it is apparent that national law is such as to obstruct the exercise of one or more fundamental freedoms guaranteed by the Treaty, it may benefit from the exceptions provided for by Union law only in so far as that complies with the fundamental rights enforced by the Court. That obligation to comply with fundamental rights manifestly comes within the scope of Union law and, consequently, within that of the Charter. The use by a Member State of exceptions provided for by Union law in order to justify an obstruction of a fundamental freedom guaranteed by the Treaty should, therefore, be regarded as 'implementing Union law' within the meaning of Article 51(1) of the Charter.

Justification

In line with the European Court of Justice judgement of 30 April 2014 in Case C-390/12 - Pfleger and Others

Amendment 30

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) The right to access political news programmes is crucial to safeguard the fundamental freedom to receive information and to ensure that the interests of viewers in the Union are fully and properly protected. Given the ever growing importance of audiovisual media services for societies and democracy, broadcasts of political news should, to the best extent possible, and without prejudice to copyright rules, be made available cross-border in the EU.

Amendment

(40) The right to access political news programmes is crucial to safeguard the fundamental freedom to receive information and to ensure that the interests of viewers in the Union are fully and properly protected. Given the ever growing importance of audiovisual media services for societies and democracy, broadcasts of political news should, without prejudice to copyright rules, be made available cross-border in the EU.
Amendment 31
Proposal for a directive
Recital 42 a (new)

*Text proposed by the Commission*

(42a) Member States should take all the necessary measures to ensure the correct, timely and effective transposition and application of this Directive.

Amendment 32
Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2010/13/EU
Article 1 – paragraph 1 – point aa

*Text proposed by the Commission*

(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:

Amendment 33
Proposal for a directive
Article 1 – paragraph 1 – point 1 – point b
Directive 2010/13/EU
Article 1 – paragraph 1 – point a a – point iii

*Text proposed by the Commission*

(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;

Amendment 34
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 created and/or uploaded to a video-sharing platform by one or more users independent of and separate from the video-sharing platform;

Amendment 35

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point d
Directive 2010/13/EU
Article 4 – paragraph 7

Text proposed by the Commission

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.

Amendment

7. The Commission shall encourage and facilitate co-regulation and self-regulation through codes of conduct in the fields coordinated by this Directive to the extent permitted by national legal systems. Those codes shall be such that they are broadly accepted by the main stakeholders concerned and approved by the national regulatory body or authority. The codes of conduct shall clearly and unambiguously set out their objectives and measures. They shall provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at. They shall provide for effective and transparent enforcement, including when appropriate, effective and proportionate sanctions are applied. Member States shall ensure that in the event co-regulation fails to achieve the desired level of protection, national regulatory bodies or authorities have effective enforcement powers, including through issuing binding codes of conduct and
applying administrative sanctions.

Amendment 36

Proposal for a directive
Article 1 – paragraph 1 – point 5 – point d a (new)
Directive 2010/13/EU
Article 4 – paragraph 7a (new)

Text proposed by the Commission

(da) The following paragraph is inserted:

7a. This Directive and any implementing act thereof shall be without prejudice to Directive 2000/31/EC, in particular Articles 14 and 15.

Amendment 37

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 38

RR\1125609EN.docx

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 (hate speech) directed against a person or a group of persons defined by reference to race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of national minority, property, birth, disability, age, gender, gender expression, gender identity, or sexual orientation, residence status or health.
Proposal for a directive
Article 1 – paragraph 1 – point 9
Directive 2010/13/EU
Article 6 a – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that audiovisual 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.

Amendment

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:

Member States shall ensure that services provided by the audiovisual media service providers under their jurisdiction are made accessible to people with visual and/or hearing disabilities, including by using subtitles for the deaf and hard of hearing, sign language interpretation and audio message and audio description for any visual information. Member States should require that media service providers report on an annual basis on the accessibility of their services.

Amendment

Proposal for a directive

PE587.655v03-00 220/237 RR\1125609EN.docx
Article 1 – paragraph 1 – point 11 – point -a (new)
Directive 2010/13/EU
Article 9 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(-a) In paragraph (1), following point (ga) is inserted:

(ga) audiovisual commercial communications for gambling services shall not be aimed specifically at minors and shall carry a clear 'no underage gambling' message indicating the minimum age below which gambling is not permissible.

Amendment 41

Proposal for a directive
Article 1 – paragraph 1 – point 11 – point a
Directive 2010/13/EU
Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Amendment 42

Proposal for a directive
Article 1 – paragraph 1 – point 13
Directive 2010/13/EU
Article 11 – paragraph 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 channels and audiovisual programmes for children, 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.
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.

2. Product placement shall be admissible in all audiovisual media services, except in news and current affairs programmes, consumer affairs programmes, religious programmes, as well as channels and audiovisual programmes for children.

Amendment 43

Proposal for a directive
Article 1 – paragraph 1 – point 14
Directive 2010/13/EU
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.

Member States shall take appropriate measures to ensure that programmes provided by audiovisual media service providers under their jurisdiction, which may impair the physical or mental 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 and shall not lead to any additional processing of personal data and be without prejudice to Article 8 of Regulation (EU) 2016/679.

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

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

Member States shall ensure that the measures taken to protect minors from programmes and content provided by audiovisual media services providers under their jurisdiction, which may impair their physical or mental development, are necessary and
proportionate and fully respect the obligations set out in the Charter, in particular those set out in Title III and Article 52 thereof.

Amendment 44

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

**Text proposed by the Commission**

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:

**Amendment**

1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, the Commission and Member States shall ensure that video-sharing platform providers take appropriate measures to:

Amendment 45

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

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 46

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

**Text proposed by the Commission**

(b) protect all citizens from content containing incitement to violence or hatred

**Amendment**

(b) protect all citizens from content containing 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.

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. These grounds are intended to further clarify the characteristics of "publicly inciting to violence or hatred" but shall not alone be considered as a basis for restricting the making available of audiovisual content. Member States shall ensure that all circumstances, such as intention, are taken into account, and freedom of expression, in particular artistic, literary and journalistic expression, is respected.

Amendment 47

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

Text proposed by the Commission

(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;

Amendment

(a) specifying the characteristics of 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 or mental development of minors, in accordance with Articles 6 and 12 respectively; Member States shall ensure that measures based on terms and conditions are only permitted where national procedural rules provide a possibility for users to assert their rights before a court after learning of such measures;
Amendment 48

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

Text proposed by the Commission

(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;

Amendment

(b) establishing and operating transparent and user-friendly 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 hosted on its platform;

Amendment 49

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

Text proposed by the Commission

(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;

Amendment

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

Amendment 50

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 2 – subparagraph 2 – point d
(d) establishing and operating systems allowing users of video-sharing platforms to rate the content referred to in paragraph 1;

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

Amendment 51

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

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

(e) providing for parental control systems that are under the control of the end-user, with respect to content which may impair the physical or mental development of minors;

Amendment 52

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

(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).

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

Amendment 53

Proposal for a directive
Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 3
Text proposed by the Commission

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).

Amendment

54

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2010/13/EU

Article 28a – paragraph 4

Text proposed by the Commission

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.

Amendment

55

Proposal for a directive

Article 1 – paragraph 1 – point 19

Directive 2010/13/EU

Article 28a – paragraph 5

4. Member States shall establish the necessary mechanisms to assess the **legality, transparency, necessity, effectiveness and proportionality** 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. **The independent national regulatory bodies or authorities shall provide the necessary guidelines to ensure that the measures taken respect the freedom of expression, are based on prior judicial authorisation, and include the necessity 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 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.

Amendment

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 respect to illegal content, in addition to appropriate measures already taken by video-sharing platform providers, provided that any measure taken, for the purposes of this Directive, to restrict the online distribution, or otherwise making available, of illegal content to the public is in line with the Charter of Fundamental Rights, is limited to what is necessary and proportionate and is taken on the basis of a prior judicial authorisation. 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. Member States shall not require video-sharing platform providers to conduct any stricter ex-ante control measure.

Proposal for a directive

Article 1 – paragraph 1 – point 19
Directive 2010/13/EU
Article 28a – paragraph 6

Text proposed by the Commission

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.

Amendment

6. Member States shall ensure that effective complaint and redress mechanisms, including counter-notice procedures, 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.
Amendment 57

Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2010/13/EU
Chapter XI – title

Text proposed by the Commission

REGULATORY AUTHORITIES OF THE MEMBER STATES;

Amendment

REGULATORY BODIES OR AUTHORITIES OF THE MEMBER STATES;

Amendment 58

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

Text proposed by the Commission

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.

Amendment

1. Each Member State shall designate, in a transparent manner, one or more independent national regulatory bodies or authorities. Member States shall ensure that they are legally distinct and functionally independent from any government or 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.

Amendment 59

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

Text proposed by the Commission

I a. Member States shall ensure that the nomination process of the head of a

Amendment
national regulatory body or authority or the members of the collegiate body fulfilling that function within a national regulatory body or authority is transparent and guarantees the requisite degree of independence for the fulfilment of its functions.

Amendment 60

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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

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

Amendment 61

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Amendment 62

Proposal for a directive
Article 1 – paragraph 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 5

Text proposed by the Commission

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.

Amendment

5. The Head of a national regulatory body or authority or the members of the collegiate body fulfilling that function within a national regulatory body or 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 and on the basis of a justified prior notification. A dismissal decision shall be made public and a statement of reasons shall be made available.

Amendment 63

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

Text proposed by the Commission

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

Amendment

1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established as an independent expert advisory group to the Commission and as a forum for the exchange of experiences and best practices between the national regulatory bodies or authorities.

Amendment 64

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30 a – paragraph 2

Text proposed by the Commission

2. It shall be composed of national independent regulatory authorities in the

Amendment

2. It shall be composed of national independent regulatory bodies or
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 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.

Amendment 65

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30 a – paragraph 3 – point a

Text proposed by the Commission

(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;

Amendment

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

Amendment 66

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30 a – paragraph 3 – point b

Text proposed by the Commission

(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

Amendment

(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, relevant civil society
the necessary information; organisations and end-users in order to collect the necessary information;

Amendment 67

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30a – paragraph 3 – point c

Text proposed by the Commission

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

Amendment

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

Amendment 68

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30a – paragraph 3 – point d

Text proposed by the Commission

(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;

Amendment

(d) to cooperate and provide its members with the information necessary for the application of this Directive, in particular as regards Articles 3, 4 and 28a thereof;

Amendment 69

Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/13/EU
Article 30a – paragraph 3 – point e

Text proposed by the Commission

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

Amendment

(e) to give opinions, when requested by the Commission, on the issues envisaged in Articles 2(5b), 6a(3), 9(2), 9(4), 28a and on any matter relating to audiovisual media services, in particular on the protection of
Amendment 70

Proposal for a directive
Article 1 – paragraph 1 – point 23
Directive 2010/13/EU
Article 33 – subparagraph 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 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, including on the impact of the implementing measures on the fundamental rights enshrined in the Charter of fundamental Rights and in particular the freedom of expression and information as provided for in Article 11.
**PROCEDURE – COMMITTEE ASKED FOR OPINION**

| Title | 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 |
| Committee responsible | CULT |
| Date announced in plenary | 9.6.2016 |
| Opinion by | LIBE |
| Date announced in plenary | 9.6.2016 |
| Rapporteur | Angelika Mlinar |
| Date appointed | 5.9.2016 |
| Discussed in committee | 24.11.2016 31.1.2017 |
| Date adopted | 31.1.2017 |
| Result of final vote | +: 44  
-: 5  
0: 1 |
| Members present for the final vote | Heinz K. Becker, Malin Björk, Caterina Chinnici, Daniel Dalton, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Raymond Finch, Monika Flašíková Beňová, Mariya Gabriel, Kinga Gál, Ana Gomes, Sylvie Guillaume, Jussi Halla-aho, Filiz Hyusmenova, Sophia in ’t Veld, Eva Joly, Dietmar Köster, Barbara Kudrycka, Cécile Kastenu Kyenge, Marja Lauristin, Juan Fernando López Aguilera, Monica Macovei, Roberta Metsola, Claude Moraes, Alessandra Mussolini, Péter Niedermüller, Soraya Post, Birgit Sippel, Csaba Sógor, Helga Stevens, Traian Ungureanu, Bodil Valero, Marie-Christine Vergiat, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský |
| Substitutes present for the final vote | Kostas Chrysogonos, Carlos Coelho, Anna Maria Corazza Bildt, Sylviane-Yvonne Kaufmann, Jean Lambert, Jeroen Lenaers, Artis Pabriks, Morten Helveg Petersen, Salvatore Domenico Pogliese, Josep-Maria Terricabras, Róża Gräfin von Thun und Hohenstein |
## PROCEDURE – COMMITTEE RESPONSIBLE

<table>
<thead>
<tr>
<th>Title</th>
<th>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</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date submitted to Parliament</td>
<td>25.5.2016</td>
</tr>
<tr>
<td><strong>Committee responsible</strong>&lt;br&gt;Date announced in plenary</td>
<td>CULT 9.6.2016</td>
</tr>
<tr>
<td><strong>Date adopted</strong></td>
<td>25.4.2017</td>
</tr>
<tr>
<td><strong>Result of final vote</strong></td>
<td>+: 17&lt;br&gt; -: 9&lt;br&gt; 0: 4</td>
</tr>
<tr>
<td><strong>Members present for the final vote</strong></td>
<td>Isabell Adinolfi, Dominique Bilde, Andrea Bocskor, Nikolaos Chountis, Angel Dzhambazki, Jill Evans, Maria Teresa Giménez Barbat, Giorgos Grammatikakis, Petra Kammerevert, Andrew Lewer, Svetoslav Hristov Malinov, Curzio Maltese, Stefano Mauullu, Luigi Morgano, Momchil Nekov, John Procter, Michaela Šojdrová, Yana Toom, Helga Trüpel, Sabine Verheyen, Julie Ward, Theodoros Zagorakis, Bogdan Andrej Zdrojewski, Milan Zver, Krystyna Łybacka</td>
</tr>
<tr>
<td><strong>Substitutes present for the final vote</strong></td>
<td>Norbert Erdős, Elena Gentile, Dietmar Köster, Ilhan Kyuchyuk, Emma McClarkin</td>
</tr>
<tr>
<td><strong>Date tabled</strong></td>
<td>10.5.2017</td>
</tr>
</tbody>
</table>
## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>+</td>
</tr>
<tr>
<td>PPE</td>
<td>Andrea Bocskor, Norbert Erdős, Svetoslav Hristov Malinov, Stefano Mauju, Sabine Verheyen, Theodoros Zagorakis, Bogdan Andrzej Zdrojewski, Milan Zver, Michaela Šojdrová</td>
</tr>
<tr>
<td>S&amp;D</td>
<td>Elena Gentile, Giorgos Grammatikakis, Petra Kammerevert, Dietmar Köster, Momchil Nekov, Krystyna Lybacka</td>
</tr>
<tr>
<td>verts/ALE</td>
<td>Jill Evans, Helga Triipel</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>ALDE</td>
<td>María Teresa Giménez Barbat, Ilhan Kyuchyuk, Yana Toom</td>
</tr>
<tr>
<td>ECR</td>
<td>Andrew Lower, Emma McClarkin, John Procter</td>
</tr>
<tr>
<td>EFDD</td>
<td>Isabella Adinolfi</td>
</tr>
<tr>
<td>GUE/NGL</td>
<td>Nikolaos Chountis, Curzio Maltese</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>ECR</td>
<td>Angel Dzhambazki</td>
</tr>
<tr>
<td>ENF</td>
<td>Dominique Bilde</td>
</tr>
<tr>
<td>S&amp;D</td>
<td>Luigi Morgano, Julie Ward</td>
</tr>
</tbody>
</table>

Key to symbols:
+ : in favour
- : against
0 : abstention