



1.2.2017

## **OPINION**

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Culture and Education

on the proposal for a directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities

(COM(2016)0287 – C8-0193/2016 – 2016/0151(COD))

Rapporteur: Herbert Dorfmann

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## SHORT JUSTIFICATION

On the 25th of May 2016, the European Commission published its proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities.

The 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

##### *Text proposed by the Commission*

(1) The last substantive amendment to Directive 89/552/EEC of the Council<sup>27</sup>, later codified by Directive 2010/13/EU of the European Parliament and of the Council<sup>28</sup>, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council<sup>29</sup>. 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

##### *Amendment*

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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.

as short videos or user-generated content, gain increasing importance and new players, including providers of video-on-demand services, *social networks* and video-sharing platforms, are now well-established.

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<sup>27</sup> Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 298, 17.10.1989, p. 23).

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<sup>27</sup> Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 298, 17.10.1989, p. 23).

<sup>28</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

<sup>28</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

<sup>29</sup> Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 332, 18.12.2007, p. 27).

<sup>29</sup> Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 332, 18.12.2007, p. 27).

## **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

#### *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. ***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.

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 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<sup>31</sup>, the Commission stressed that when considering policy solutions, it will consider both regulatory and well-designed non-regulatory means, modelled

##### *Amendment*

(7) In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda<sup>31</sup>, 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<sup>32</sup>. 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.

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<sup>31</sup> COM(2015) 215 final.

<sup>32</sup> <https://ec.europa.eu/digital-single-market/communities/better-self-and-co-regulation>

## 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

on the Community of practice and the Principles for Better Self- and Co-regulation<sup>32</sup>. 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.

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<sup>31</sup> COM(2015) 215 final.

<sup>32</sup> <https://ec.europa.eu/digital-single-market/communities/better-self-and-co-regulation>

#### *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

descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical or acoustic means.

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*

*Amendment*

***(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 possible.***

## **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*

(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*

(10) Certain widely recognised nutritional guidelines exist at national and international level 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, ***such as the EU Pledge initiative and others developed in the framework of the Commission's Platform for Action on Diet, Physical Activity and Health***, are used to effectively reduce the exposure of children to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars or fat or that otherwise do not fit these national or international nutritional guidelines.

## **Amendment 9**

### **Proposal for a directive Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(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

*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 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 should 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)

***(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*

*Amendment*

***(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.***

***deleted***

### **Amendment 14**

#### **Proposal for a directive Recital 16**

*Text proposed by the Commission*

*Amendment*

(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***

(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

**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.

**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 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 **and social networks**, 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, **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,

##### *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-

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 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 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

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*

(31) When taking the appropriate measures to protect minors from harmful content and to protect all citizens from content containing incitement to **terrorism**, 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. **Member States should ensure that the applicable fundamental principles are taken into account by all audiovisual media service providers.** 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 right to private property**, the freedom of expression and information, the freedom to conduct a business, the prohibition of discrimination and the right of the child.

*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 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 20**

**Proposal for a directive**

PE592.287v02-00

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*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 internal market and the promotion of fair competition.

*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;

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**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*

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 ***terrorism or 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 22**

**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

*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 encourage media service providers to exchange best practices on 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 24

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10

Directive 2010/13/EU

Article 7

*Text proposed by the Commission*

*Amendment*



(10) Article 7 is *deleted*;

(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

#### *Present text*

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

#### *Amendment*

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

*"(e) the exposure of children and minors to* audiovisual commercial communications for alcoholic beverages shall ***be minimised and such communications*** shall not encourage immoderate consumption of such beverages ***and shall not accompany a programme aimed at a children's audience, in the form of an advertising break broadcast during, immediately preceding or immediately following such a programme, or be included in such a programme, and shall be prohibited during hours of peak viewing by children's audiences;***"

## 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*

*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 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.*

Member States shall *ensure that* audiovisual commercial communications *for foods and non-alcoholic beverages that are high in fats, salt or sugars do not accompany, and are not* included in, programmes *aimed at children or programmes shown during hours of peak viewing by* children’s audiences. *Member States shall also ensure that video-sharing platform providers take appropriate measures to prevent such audiovisual commercial communications from accompanying, or from being included in, content aimed at a children's audience.*

**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)

*(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*

*Amendment*

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.*

3. Member States *shall adopt measures to minimise the exposure of minors to commercial communications for alcoholic beverages. Without prejudice to the adoption of regulatory measures, Member States and the Commission shall encourage the development of self-regulatory and co-regulatory initiatives, including codes of conduct, to further minimise the exposure of minors to such commercial communications accompanying or included in programmes with a significant children' audience.*

## **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*

*Amendment*

*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*

*Amendment*

***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 facilitate the development of Union codes of conduct.

*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 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

*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.

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

<b>Title</b>	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
<b>References</b>	COM(2016)0287 – C8-0193/2016 – 2016/0151(COD)
<b>Committee responsible</b> Date announced in plenary	CULT 9.6.2016
<b>Opinion by</b> Date announced in plenary	ENVI 9.6.2016
<b>Rapporteur</b> Date appointed	Herbert Dorfmann 14.7.2016
<b>Discussed in committee</b>	29.11.2016
<b>Date adopted</b>	31.1.2017
<b>Result of final vote</b>	+: 29 –: 7 0: 30
<b>Members present for the final vote</b>	Marco Affronte, Margrete Auken, Pilar Ayuso, Zoltán Balczó, Simona Bonafè, Biljana Borzan, Paul Brannen, Soledad Cabezón Ruiz, Nessa Childers, Alberto Cirio, Mireille D’Ornano, Miriam Dalli, Angélique Delahaye, Mark Demesmaeker, Ian Duncan, Stefan Eck, Bas Eickhout, José Inácio Faria, Karl-Heinz Florenz, Francesc Gambús, Elisabetta Gardini, Gerben-Jan Gerbrandy, Jens Gieseke, Julie Girling, Sylvie Goddyn, Françoise Grossetête, Andrzej Grzyb, György Hölvényi, Anneli Jäätteenmäki, Benedek Jávor, Kateřina Konečná, Urszula Krupa, Giovanni La Via, Peter Liese, Norbert Lins, Valentinas Mazuronis, Susanne Melior, Miroslav Mikolášik, Gilles Pargneaux, Piernicola Pedicini, Pavel Poc, Julia Reid, Frédérique Ries, Daciana Octavia Sârbu, Renate Sommer, Claudiu Ciprian Tănăsescu, Estefanía Torres Martínez, Adina-Ioana Vălean, Jadwiga Wiśniewska, Damiano Zoffoli
<b>Substitutes present for the final vote</b>	Clara Eugenia Aguilera García, Inés Ayala Sender, Jørn Dohrmann, Herbert Dorfmann, Martin Häusling, Jan Huitema, Peter Jahr, Merja Kyllönen, Gesine Meissner, James Nicholson, Gabriele Preuß, Bart Staes, Tibor Szanyi, Tiemo Wölken
<b>Substitutes under Rule 200(2) present for the final vote</b>	Dieter-Lebrecht Koch, Inmaculada Rodríguez-Piñero Fernández