



2016/0151(COD)

11.11.2016

AMENDMENTS

25 - 217

Draft opinion

Daniel Buda

(PE589.491v01-00)

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

Proposal for a directive

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

Amendment 25
Mady Delvaux

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The last substantive amendment to Directive 89/552/EEC of the Council²⁷, later codified by Directive 2010/13/EU of the European Parliament and of the Council²⁸, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council²⁹. 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.

²⁷ 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

Amendment

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²⁷ 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).

²⁸ 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).

²⁹ 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).

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²⁸ 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).

²⁹ 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).

Or. en

Amendment 26

Notis Marias

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The last substantive amendment to Directive 89/552/EEC of the Council²⁷, later codified by Directive 2010/13/EU of the European Parliament and of the Council²⁸, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council²⁹. 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

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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.

²⁷ 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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Or. el

Amendment 27
Angel Dzhambazki

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 with editorial responsibility to abide by the provisions of this Directive.

Amendment

(3) Directive 2010/13/EU should remain applicable only to **audiovisual media** services the principal purpose of which is the provision of programmes in order to inform, entertain or educate, **and which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public**. 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. **Similarly, audiovisual media services that are not primarily economic in their purpose and do not compete with television broadcasting but, for example, provide and distribute 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.

Or. en

Justification

The Commission's decision to remove the idea of "television like" from the current Directive (Article 1 point 1 b) due to media convergence may have the unintended consequence of broadening the scope of the definition of a programme to services not intended as mass media and thus unlikely to reach a large audience, which reduces the risk of significant impact or harm. This amendment and Recital 3 a (new) aim to clarify this.

Amendment 28
Angel Dzhambazki

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) On-demand audiovisual media services compete for the same audience as television broadcasts. The nature and means of access to those on-demand audiovisual media services would therefore lead the user reasonably to expect regulatory protection within the scope of Directive 2010/13/EU. In light of this fact, and in order to prevent disparities with regard to free movement and competition, the concept of "programme" should be interpreted in a dynamic way, taking into account developments in the provision of the content of audiovisual media services that are directed at a significant audience and considered mass media.

Or. en

Amendment 29
Jean-Marie Cavada

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 ***non-binding*** opinions on jurisdiction upon the Commission's request ***as it is composed of national independent regulatory authorities in the field of audiovisual media services.***

Or. en

Amendment 30
Cecilia Wikström

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

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*national independent regulatory
authorities in the field of audiovisual
media services.*

Or. en

Amendment 31

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

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 on jurisdiction, *in conjunction with national regulatory authorities*, upon the Commission's request.

Or. en

Justification

This amendment underlines the point that national regulatory authorities should be involved in such opinions, whether represented at ERGA or not.

Amendment 32

Mady Delvaux

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 ***Commission can ask the*** European Regulators Group for Audiovisual Media Services (ERGA) to provide opinions on jurisdiction.

Or. en

Amendment 33
Angelika Niebler

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) ***may*** therefore provide opinions on jurisdiction upon the Commission's request.

Or. de

Amendment 34 Notis Marias

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 Agenda³¹, 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-regulation³². 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.

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

Amendment

7. In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda³¹, 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-regulation³². 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 alternative 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.

³¹ COM(2015) 215 final.

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

Or. el

Amendment 35
Mady Delvaux

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 Agenda³¹, 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-regulation³². 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

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

Amendment

(7) In its Communication to the European Parliament and to the Council on Better Regulation for Better Results – an EU Agenda³¹, 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-regulation³². 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' period*. ***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, 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

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

Amendment 36
Cecilia Wikström

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". This should include aligning the grounds on which incitement to violence or hatred is based ***as well as those grounds not covered by Council 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.***

Or. en

Amendment 37
Notis Marias

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

Amendment

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"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.

"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", ***thereby incurring penalties***. This should include aligning the grounds on which incitement to violence or hatred is based.

Or. el

Amendment 38 **Sajjad Karim**

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 ***and, where possible, service providers should seek to use locally available systems of rating of descriptors which should ensure protection is in accordance with local standards.***

Or. en

Amendment 39
Mady Delvaux

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, 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.

Or. en

Amendment 40
Cecilia Wikström

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.

Or. en

Amendment 41
Jean-Marie Cavada, Marc Joulaud

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 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 those 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. Appropriate accessibility measures could be developed through self-regulation and co-regulation

Or. en

Amendment 42
Cecilia Wikström

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 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 those with a visual or hearing disability by 2022 at the latest.

Or. en

Amendment 43
Jytte Guteland

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 be encouraged to ensure that *self- and co-regulation* are used to effectively *end* the exposure of children and minors to audiovisual commercial communications for alcoholic *products*. 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 *and Member States should be allowed to take further steps in drafting national guidelines*, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic *products*.

Or. en

Amendment 44
Notis Marias

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 be encouraged to ensure that self-and co-regulatory codes of conduct are used to effectively limit the exposure of children and minors to ***unsuitable*** 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.

Or. el

Amendment 45

Jiří Maštálka, Kostas Chrysogonos

**Proposal for a directive
Recital 11 a (new)**

Text proposed by the Commission

Amendment

(11a) Given the potential harm caused by alcohol to all individuals and to society as a whole, Member States should encourage audiovisual media service providers to limit the exposure of viewers to products containing alcohol. As the rules applicable to tobacco prohibit the advertisement of such products due to their harmful effects, the same rules should be applied to alcoholic products.

Or. en

Amendment 46
Jytte Guteland

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Given the potential harm caused by alcohol to all individuals and to society as a whole, Member States should encourage audiovisual media service providers to limit the exposure of viewers to products containing alcohol. As the rules applicable to tobacco prohibit the advertisement of such products due to their harmful effects, the same rules should be applied to alcoholic products.

Or. en

Amendment 47
Angel Dzhambazki

Proposal for a directive
Recital 12

Text proposed by the Commission

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 might be a good means of ensuring a more coherent and effective approach.***

(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. ***Codes of conduct at Union level may be of interpretative assistance to national regulatory authorities in the drafting of codes of conduct at national level and may help to improve coherence as regards the implementation of Directive 2010/13/EU.***

Or. en

Justification

This amendment seeks to clarify that such codes of conduct can be a two-way process and are thus useful for sharing best practice and improving implementation.

Amendment 48
Angel Dzhambazki

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Whilst potentially a beneficial tool in the interpretation and implementation of Directive 2010/13/EU, it is important that Union codes of conduct comply fully with the principles of subsidiarity and proportionality. Further public information, clarification and consultation on the functioning of Union codes of conduct is necessary before the Commission considers facilitating the development of such codes of conduct.

Or. en

Justification

This amendment underlines that Commission support in facilitating Union codes of conduct may be of assistance, but that subsidiarity should always be respected in their development.

Amendment 49
Marc Joulaud

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 ***deleted***

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.

Or. en

Justification

The existing quantitative rules 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 rules would also affect vital non-audiovisual sectors, such as the press, which rely heavily on advertising and already face financing difficulties.

Amendment 50
Angel Dzhambazki

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 TV broadcasting has evolved and there is a need for ***greater clarity*** with regard to audiovisual commercial communications, in particular for 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.

Or. en

Justification

This amendment aims to support the need for legal certainty for commercial broadcasters in their interpretation of the current Directive, so that forms of advertising, such as sponsorship and product placement, can be used to generate investment in quality content, whilst

preventing potential negative impacts on consumers and business models based on impact, as opposed to minutage, from liberalisation of quantitative commercial communication rules.

Amendment 51
Mady Delvaux

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 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.

Or. en

Amendment 52
Angel Dzhambazki

Proposal for a directive
Recital 13 a (new)

Text proposed by the Commission

(13a) Independent audience measurement for audiovisual media services, including commercial communications, is needed to ensure adequate and transparent information to audiovisual media service providers and national regulatory authorities.

Amendment

Or. en

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 53

Jytte Guteland

Proposal for a directive

Recital 14

Text proposed by the Commission

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

Amendment

(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 *being allowed to* directly *encourage* 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.

Or. en

Amendment 54

Notis Marias

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.***

Or. el

Amendment 55

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

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

Amendment

(16) Product placement should not be admissible in news and current affairs programmes, consumer affairs programmes, religious programmes and ***children's programmes, which should be understood as programmes that are primarily produced for and aimed at children.*** In particular, evidence shows that product placement and embedded advertisements can affect children's behaviour as children are often not able to recognise the commercial content. There is thus a need to continue to prohibit product placement in children's ***programmes.*** 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

expect a genuine and honest review of products or services in such programmes.

editorial content for viewers who may expect a genuine and honest review of products or services in such programmes.

Or. en

Justification

The current wording of Directive 2010/13/EU ("children's programmes") has allowed national regulatory authorities to identify satisfactorily those programmes that should be subject to product placement prohibition. A "significant children's audience" is impossible for programme producers to accurately ascertain in advance, as is required for product placement, since they cannot predict when a broadcaster will schedule or repeat a programme. See Article 11 of Directive 2010/13/EU.

Amendment 56 **Notis Marias**

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 rule that a product should not be given undue prominence ***must be applied*** in practice. 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.

Or. el

Amendment 57 **Marc Joulaud**

Proposal for a directive **Recital 18**

Text proposed by the Commission

Amendment

(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 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.

(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 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.***

Or. en

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 58

Angel Dzhambazki, Kosma Zlotowski, Zdzisław Krasnodębski

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***

deleted

*within the period from 7:00 to 23:00
should be introduced.*

Or. en

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 59 **Jiří Maštálka**

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.

deleted

Or. en

Amendment 60 **Constance Le Grip**

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.

deleted

Or. en

**Amendment 61
Emil Radev**

**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.

(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.
Member States should ensure the highest level of protection for consumers, and particularly young viewers, against an excessive amount of broadcast advertising, especially during prime time.

Or. bg

Amendment 62
Marc Joulaud

Proposal for a directive
Recital 20

Text proposed by the Commission

Amendment

(20) Many broadcasters are part of larger media groups and make announcements not only in connection with their own programmes and ancillary products directly derived from those programmes but also in relation 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.

deleted

Or. en

Justification

Allowing media groups to freely make announcements 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 increase in the amount of advertising, as these announcements would be excluded from the quantitative rules.

Amendment 63
Mady Delvaux

Proposal for a directive
Recital 21

Text proposed by the Commission

Amendment

(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their

(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.

catalogues contain a minimum share of European works and that those are given enough prominence *in order to promote European production and preserve and encourage cultural diversity.*

Or. en

Amendment 64
Angel Dzhambazki

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, *where practical and by appropriate means*, that their catalogues contain a minimum share of European works and that those are given enough prominence.

Or. en

Justification

New on-demand service providers may choose a business model based on niche content, i.e. Japanese anime, in response to consumer demand. With a view to not restricting consumer choice or discouraging new market entrants, this amendment seeks to clarify that the production and distribution of European works should be encouraged, but only where it is practical and appropriate to do so. It also removes the suggestion that on-demand service providers should give prominence to European works. On-demand services, by their very nature, respond to consumer choice.

Amendment 65
Sajjad Karim

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 **are encouraged to** promote the production and distribution of European works by ensuring that their catalogues contain **high quality** European works.

Or. en

Amendment 66

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

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 **range** of European works and that those are given enough prominence.

Or. en

Amendment 67

Angel Dzhambazki

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) In order to **ensure adequate** levels of investment **on** European works, Member States **should be able to** impose financial obligations **to** on-demand service providers established **on** their **territory**. Those obligations can take the form of direct

Amendment

(22) In order to **seek to improve** levels of investment **in** European works, Member States **may** impose financial obligations **on** on-demand service providers established **within** their **jurisdiction**. Those **financial** 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.***

contributions to the production of and acquisition of rights in European works. ***In accordance with the country of origin principle, Member States should only impose such financial obligations on on-demand service providers established within their jurisdiction.***

Or. en

Justification

This amendment seeks to protect the integrity of the country of origin principle, which is key to the effective functioning of a single market in broadcasting. Further derogations from the country of origin principle should only be permitted in serious circumstances, such as those already outlined in Directive 2010/13/EU, or on grounds of national security. In addition, the Commission has not provided evidence that existing, or additional, levies have or would increase investment in quality European content.

Amendment 68 **Angel Dzhambazki**

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

Amendment

deleted

language of the service or the existence of content or commercial communications aiming specifically at the audience in the Member State of reception.

Or. en

Justification

See justification for amendment to Recital 22.

Amendment 69

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

Proposal for a directive

Recital 24

Text proposed by the Commission

Amendment

(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.

deleted

Or. en

Justification

See justification for amendment to Recital 22.

Amendment 70

Cecilia Wikström

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 ***addition, the decision to remove such content, which is often dependent on a subjective interpretation, can undermine the freedom of expression and information.*** In ***this context,*** it is necessary, in order to protect ***citizens*** from harmful content and from content containing incitement to violence or hatred ***hosted on video-sharing platforms, but also to protect and guarantee users' fundamental rights,*** 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.***

Or. en

Amendment 71
Angel Dzhambazki

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

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 minors from harmful content and all citizens from content containing incitement to violence or hatred, to set out proportionate rules on those matters.

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 *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 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.07.2000, p. 1).

Or. en

Justification

This amendment seeks to underline that the extension of scope to video-sharing platforms in the amending Directive does not impinge upon the limited liability of online platforms, and measures to address illegal content, contained within Directive 2000/31/EC (the e-Commerce Directive). See also Recital 29.

Amendment 72

Notis Marias

Proposal for a directive

Recital 27

Text proposed by the Commission

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

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. The measures set out in this Directive therefore complement those set out in Directives 2005/29/EC, 2003/33/EC and 2014/40/EU.

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 must 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.

Or. el

Amendment 73
Cecilia Wikström

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.

Or. en

Amendment 74

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

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, *where it is demonstrated that* those providers determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms, *they* 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.

Or. en

Justification

This amendment seeks to improve the clarity of the amending Directive text by stating that, to be included in the extended scope of the amending Directive, video-sharing platforms should clearly demonstrate that they do determine the organisation of content.

Amendment 75

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

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*³⁴, 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.

³⁴ *Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.07.2000, p. 1).*

Amendment

(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, 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.

Or. en

Justification

Required for consistency with amendment to Recital 26.

Amendment 76
Cecilia Wikström

Proposal for a directive
Recital 29

Text proposed by the Commission

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

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.07.2000, p. 1).

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 Council³⁴, which provides for an exemption from liability for illegal information stored by certain providers of information society services. When providing services covered by Article 14 of Directive 2000/31/EC, those requirements should also apply without prejudice to Article 15 of that Directive, which precludes general obligations to monitor such information and to actively seek facts or circumstances indicating illegal activity from being imposed on those providers, without however concerning monitoring obligations in specific cases and, in particular, without affecting **judicial** orders by national authorities in accordance with national legislation.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.07.2000, p. 1).

Or. en

Amendment 77
Notis Marias

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 Council³⁵. It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.

³⁵ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

Amendment

30. It is appropriate to involve the video-sharing platform providers ***actively*** 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 Council³⁵. It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.

³⁵ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

Or. el

Amendment 78
Cecilia Wikström

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) 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 of the European Union, is limited to what is necessary and proportionate and is taken on the basis of a prior judicial authorisation.

Or. en

Amendment 79
Cecilia Wikström

Proposal for a directive
Recital 31

Text proposed by the Commission

Amendment

(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.

(31) When taking ***restrictive*** measures to protect ***citizens*** from harmful content and 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. ***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 be implemented in a way which offers maximum protection for privacy.

Or. en

Amendment 80
Notis Marias

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

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 **and be taken into account by every audiovisual media service**. 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.

Or. el

Amendment 81
Cecilia Wikström

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) 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 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.

Or. en

Amendment 82
Cecilia Wikström

Proposal for a directive
Recital 32 a (new)

Text proposed by the Commission

Amendment

(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.

Or. en

Amendment 83
Jean-Marie Cavada

Proposal for a directive
Recital 32 a (new)

Text proposed by the Commission

Amendment

(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 from any government, operate in a transparent and accountable manner as set out in law, and have sufficient powers.

Or. en

Amendment 84
Notis Marias

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. 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.

Or. el

Amendment 85
Axel Voss

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

Amendment

(33) Regulatory authorities of the Member States can achieve the requisite degree of structural independence ***for***

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.

example 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.

Or. en

Amendment 86
Cecilia Wikström

Proposal for a directive
Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) This Directive 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. 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.

Or. en

Amendment 87
Jean-Marie Cavada

Proposal for a directive
Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) This Directive 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. 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.

Or. en

Amendment 88
Angelika Niebler

Proposal for a directive
Recital 36

Text proposed by the Commission

Amendment

(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.***

(36) ERGA has made a positive contribution towards consistent regulatory practice and has provided high level advice to the Commission on implementation matters. ***It should therefore take on a coordinating role in future too.***

Or. de

Amendment 89
Kostas Chrysogonos, Jiří Maštálka

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) 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, *reinforcement and further clarification* of its role in this Directive. The group should therefore be re-established by virtue of this Directive.

Or. en

Amendment 90
Cecilia Wikström

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) ERGA has made a positive contribution towards consistent regulatory practice and has provided high level *and independent* 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.

Or. en

Amendment 91
Jean-Marie Cavada

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) ERGA has made a positive contribution towards consistent regulatory practice and has provided high level **and independent** 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.

Or. en

Amendment 92
Cecilia Wikström

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 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.

Or. en

Amendment 93
Jean-Marie Cavada

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 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.

Or. en

Amendment 94
Angelika Niebler

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

Amendment

(37) The Commission should be free to consult ERGA on any matter relating to audiovisual media services and video-sharing platforms. ERGA **may** 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 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.

across the Digital Single Market. Upon the Commission's request, ERGA *may* 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.

Or. de

Amendment 95
Emil Radev

Proposal for a directive
Recital 38

Text proposed by the Commission

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

Or. bg

Amendment 96
Jean-Marie Cavada, Marc Joulaud

Proposal for a directive
Recital 38

Text proposed by the Commission

(38) This Directive is without prejudice to the ability of Member States to **impose obligations** to ensure discoverability and **accessibility of** content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are **necessary to** meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in 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 **take measures** to ensure **non-discriminatory** discoverability and **access to** 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 **proportionate and** meet general interest objectives clearly defined by Member States in conformity with Union law. **Such obligations should, moreover, only be imposed when there is a threat to the diversity of opinion.** 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 **introduce** discoverability rules, they should only **take** proportionate **measures with regard to** undertakings, in the interest of legitimate public policy considerations.

Or. en

Amendment 97
Mady Delvaux

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

Amendment

(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure discoverability and accessibility of content of general interest under defined general interest objectives

such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in 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.

such as *guaranteeing* media *independence and* pluralism, freedom of speech *and expression* 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.

Or. en

Amendment 98

Jiří Maštálka, Kostas Chrysogonos

Proposal for a directive

Recital 38

Text proposed by the Commission

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

Amendment

(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure *non-discriminatory* 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

considerations.

public policy considerations.

Or. en

Amendment 99

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

Proposal for a directive

Recital 38 a (new)

Text proposed by the Commission

Amendment

(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 in Directive 2010/13/EU, in line with the general principles of the United Nations Convention on the Rights of Persons with Disabilities. The horizontal Commission proposal for a European Accessibility Act^{1a} aims at enshrining these principles in Union law by removing barriers to access created by divergent legislation. While this is a welcome development and is considered appropriate in respect of the consumer equipment necessary to access audiovisual media content, the unique nature and cultural specificity of audiovisual media content itself is such that the regulation of existing and future access services that enable access to such content should remain in Directive 2010/13/EU, which is sector-specific.

^{1a} COM(2015)615 final.

Or. en

Justification

This new recital reinstates and develops Recital 46 of the current Directive, deleted by the amending Directive. This amendment precedes the return to the AVMSD of a strengthened Article 7, underlining the importance of encouraging audiovisual media service providers to be ambitious in their efforts to improve accessibility.

Amendment 100

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

Proposal for a directive

Recital 38 b (new)

Text proposed by the Commission

Amendment

(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.

Or. en

Justification

See justification for Recital 38 a (new) and Article 1 paragraph 1 point g a (new) of Directive 2010/13/EU, which provides a new definition of "access service". Any list, or definition of an 'access service', must remain future-proof and allow for innovation.

Amendment 101

Constance Le Grip, Marc Joulaud

Proposal for a directive

Article 1 – point 1 – point a

Directive 2010/13/EU

Article 1 – paragraph 1 – point a – point i

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 102
Angel Dzhambazki

Proposal for a directive
Article 1 – point 1 – point c
Directive 2010/13/EU
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 and original drama ***that target a significant audience as mass media***;

Or. en

Justification

See justification for amendment to Recital 3.

Amendment 103

Marc Joulaud

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

(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 by one or more users;

Or. en

Justification

The most significant criteria to characterise legally a user-generated video is the uploading of the content by the user, not the creating of it as is not always the case in videos uploaded on video-sharing platforms and legally clear.

Amendment 104

Angel Dzhambazki

Proposal for a directive

Article 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

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

Or. en

(See Article 2 of Directive 2010/13/EU)

Justification

This amendment provides a new definition of 'editorial decision' to clarify what the making of editorial decisions entails, as referred to in Article 2 of Directive 2010/13/EU. This new definition aims to assist national regulatory authorities in the practical implementation of the Directive. Relates to Article 2, paragraph 3, points (a) and (b) of Directive 2010/13/EU concerning rules of establishment.

Amendment 105
Angel Dzhambazki

Proposal for a directive

Article 1 – point 1 – point e

Directive 2010/13/EU

Article 1 – paragraph 1 – point d a

Text proposed by the Commission

(da) 'video-sharing platform provider' means the natural or legal person who provides a video-sharing platform service;

Amendment

(da) 'video-sharing platform provider' means the natural or legal person, **without editorial responsibility**, who provides a video-sharing platform service;

Or. en

Justification

This amendment seeks to underline that, for the purposes of this Directive, a video-sharing platform provider does not have editorial responsibility for the content it hosts.

Amendment 106
Angel Dzhambazki

Proposal for a directive

Article 1 – point 1 – point e a (new)

Directive 2010/13/EU

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

Text proposed by the Commission

Amendment

(ea) **the following point is inserted:**
(db) **'access service' means, but is not limited to, an add-on feature of an**

audiovisual media service that improves the accessibility of a programme for people with functional limitations, including persons with disabilities. Access services include, but are not limited to:

(i) subtitles for the deaf and hard of hearing: synchronized visual text alternative for both speech and non-speech audio information needed to understand the media content;

(ii) audio description: 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;

(iii) spoken subtitles or audio subtitles: read aloud of subtitles in the national language when the audio speech is in a different language;

(iv) sign language interpretation: simultaneous translation of both speech and non-speech audio information needed to understand the programme, provided in the national sign language.'

Or. en

Justification

It is necessary to include a definition of an access service to avoid misinterpretation, for example, between subtitles, meaning the translation or transcription into national language of programme dialogues, and a full access service that provides the transcription of non-speech audio information, such as noises, music, sounds, etc. and conveys meaning in a programme. Such a definition should not limit future innovation in access services.

Amendment 107
Angel Dzhambazki

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

Text proposed by the Commission

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 activity operates; **deleted**

Or. en

Justification

This deletion aims to reinstate the wording of Article 2, paragraph 3, point (b) of the current Directive - 'significant part of the work force'. The Commission's notion of 'majority' would prove problematic where a majority of an audiovisual media service provider's workforce is located neither in the same country as its head office nor where editorial decisions are taken. Reliable information on headcount may also be difficult for national regulatory authorities to obtain and thus the term "majority" may increase regulatory burden.

Amendment 108
Angelika Niebler

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

Text proposed by the Commission

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. **deleted**

Justification

Compiling such lists involves large-scale jurisdictional checks for Member States; because of rapid change within the media, their validity cannot be permanently guaranteed.

Amendment 109
Angel Dzhambazki

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

Text proposed by the Commission

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

Amendment

5a. Member States shall ***maintain*** a list of the audiovisual media service providers under their jurisdiction and the criteria set out in paragraphs 2 to 5 on which their jurisdiction is based. ***Member States shall ensure that national regulatory authorities share such lists with the Commission and with other competent independent regulatory authorities, via a central database, or by other appropriate means. Member States shall update such lists, without undue delay, whenever changes to the audiovisual media service providers under their jurisdiction occur.***

Or. en

Justification

This amendment seeks to clarify that any list provided by Member States is kept up-to-date, rather than simply communicated. Sharing of said lists with other national regulatory authorities, as well as the Commission, will assist in sharing best practice and faster decision-making on jurisdiction.

Amendment 110
Mady Delvaux

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

Text proposed by the Commission

5a. ‘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. ‘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.

Or. fr

Amendment 111
Cecilia Wikström

Proposal for a directive
Article 1 – point 3 – point b
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 on which Member State has jurisdiction within one month following the notification referred to in paragraph 5b or the opinion provided by ERGA.

Or. en

Amendment 112
Jean-Marie Cavada, Marc Joulaud

Proposal for a directive
Article 1 – point 3 – point b
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 on which Member State has jurisdiction within one month following the notification referred to in paragraph 5b or the opinion provided by ERGA.*

Or. en

Amendment 113
Angelika Niebler

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

Text proposed by the Commission

Amendment

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 3 months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.

The Commission shall, within three months following the notification of the measures taken by the Member State in application of paragraphs 2 and 3, 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 3 months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.

Or. de

Amendment 114
Mady Delvaux

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 delay*** request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.

Or. en

Amendment 115
Cecilia Wikström

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

Amendment

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

Or. en

Amendment 116
Jean-Marie Cavada

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

Amendment

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

Or. en

Amendment 117
Mady Delvaux

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

Text proposed by the Commission

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 paragraphs 2 and 3 are correctly founded.

(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.

Or. en

Amendment 118
Angelika Niebler

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

Text proposed by the Commission

Amendment

(c) the Commission has decided, **after**

(c) the Commission has decided that

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.

the measures are compatible with Union law, and in particular that assessments made by the Member State taking those measures under paragraphs 2 and 3 are correctly founded.

Or. de

Amendment 119
Angelika Niebler

Proposal for a directive
Article 1 – point 5 – point d
Directive 2010/13/EU
Article 4 – paragraph 7 – subparagraph 3

Text proposed by the Commission

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

The Commission may publish those codes as appropriate.

Or. de

Amendment 120
Jiří Maštálka, Kostas Chrysogonos

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 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 or belief, **political or**

any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation;

Or. en

Amendment 121

Constance Le Grip, Marc Joulaud

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 *the commission of terrorist acts or any other form of* 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.;

Or. en

Amendment 122

Angel Dzhambazki

Proposal for a directive

Article 1 – point 9

Directive 2010/13/EU

Article 6a

Text proposed by the Commission

(9) *the following Article 6a is inserted:*

‘Article 6a

1. Member States shall ensure that audiovisual media service providers

Amendment

deleted

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

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

Or. en

Justification

This deletion seeks to move the provisions in the Commission's new Article 6a of the amending Directive to a revised Article 12, where obligations in relation to the same type of content sit.

Amendment 123 **Cecilia Wikström**

Proposal for a directive **Article 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 provide sufficient information to viewers about content which may impair the physical *or mental* 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 124
Angelika Niebler

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.

Or. de

Amendment 125
Jiří Maštálka, Kostas Chrysogonos

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

Text proposed by the Commission

Amendment

(9a) the following Article 6aa is inserted:

Article 6aa

1. Without prejudice to Articles 12, 13, 14 and 15 of Directive 2000/31/EC, Member States shall ensure, by appropriate means, that media service providers and video-sharing platform providers under their jurisdiction do not contain:

(a) programmes and user-generated videos containing 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, descent or national origin;

(b) programmes or user-generated videos which may impair the physical, mental or moral development of minors. Such content shall only be made available in such a way as to ensure that minors will not normally hear or see it. This can be achieved by selecting the time of their availability, age verification tools or other technical measures.

2. What constitutes an appropriate means for the purposes of paragraph 1 shall be determined in light of the nature of the content in question, shall be proportionate to the potential 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 providers and the users having created and/or uploaded the content as well as the public interest and respect communicative freedoms. Providers shall provide sufficient information to viewers about such content, preferably using a system of descriptors indicating the nature of the content. The liability regime of Articles 12, 13, 14 and 15 of Directive 2000/31/EC shall not be put at risk by such means.

Or. en

Amendment 126

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

Proposal for a directive

Article 1 – point 10

Directive 2010/13/EU

Article 7

Text proposed by the Commission

Amendment

(10) *Article 7 is deleted;*

deleted

Or. en

Justification

This deletion seeks to reinstate Article 7 of the current Directive, which is deleted by the Commission proposal, to ensure that Member States and audiovisual media services providers are encouraged to make audiovisual content more accessible for people with a wide range of disabilities. A new Article 7a will be added to strengthen it.

Amendment 127

Jean-Marie Cavada, Marc Joulaud

Proposal for a directive

Article 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***:

Article 7

1. Member States shall ensure that media service providers under their jurisdiction make their services progressively accessible to people with a visual or hearing disability aiming for complete accessibility by the end of 2027.

2. With regard to the implementation of this Article, Member States shall encourage self-regulatory and co-regulatory codes of conduct. The Commission and ERGA shall encourage media service providers to exchange best practices across the Union.

3. By ... [three years after the entry into force of this Directive], and every three years thereafter, the Commission shall submit to the European Parliament, to the Council and to the European

Amendment 128
Cecilia Wikström

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 facilitate the development of a code of conduct applicable to media service providers under their jurisdiction to ensure that audiovisual media services shall be made accessible to persons with disabilities without undue delay and by 2022 at the latest.*
- 2. Such codes of conduct may be a self-regulatory or co-regulatory measure. The Commission and ERGA shall support the exchange of best practice between audiovisual media service providers for the purpose laid down in paragraph 1.*
- 3. Such codes of conduct shall include a requirement that media service providers report on an annual basis to the Member State in which they are established about steps taken and progress made in respect of paragraph 1.';*

Amendment 129
Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

Text proposed by the Commission

Amendment

(7a) The following article is inserted:

"Article 7a

1. Member States shall take steps to develop codes of conduct applicable to media service providers under their jurisdiction intended to ensure that their services are made progressively more accessible to persons with visual and/or hearing disabilities.

2. Such codes of conduct may be a self- or co-regulatory measure. The Commission and ERGA shall facilitate the exchange of best practice between audiovisual media service providers.

3. Such codes of conduct 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 publically 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.";

Or. en

Justification

This amendment seeks to strengthen Article 7 of Directive 2010/13/EU.

Amendment 130
Jonás Fernández

Proposal for a directive
Article 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 shall ensure that media service providers under their jurisdiction do not restrict access to their audiovisual content from another Member State, including content provided from webpages.’

Or. es

Amendment 131
Jonás Fernández

Proposal for a directive
Article 1 – point 10 b (new)
Directive 2010/13/EU
Article 8 a (new)

Text proposed by the Commission

Amendment

10b) The following Article 8a is inserted:

'Article 8a

Member States shall ensure that media service providers under their jurisdiction do not restrict access to paid audiovisual content, including content provided from webpages, based on the country in which the card used for payment is domiciled.’

Or. es

Amendment 132

Jiří Maštálka, Kostas Chrysogonos

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 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. ***The WHO nutrient profile model shall be used as guidance when defining which foods and beverages can or cannot be advertised.***

Or. en

Amendment 133

Angel Dzhambazki

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

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***

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.

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.

Or. en

Justification

A "significant children's audience" can be difficult to ascertain and apply in respect of product placement, where programme producers cannot predict when a broadcaster will schedule or repeat a programme. However, in respect of spot advertising (i.e. television advertising occupying a short break during or between programmes) schedulers can make a reasonable assessment in advance of whether or not a significant children's audience is likely. Our amendment reflects this realistic approach.

Amendment 134 **Cecilia Wikström**

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 children's **programmes**, 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.

Or. en

Amendment 135

Jiří Maštálka

Proposal for a directive

Article 1 – point 11 – point a

Directive 2010/13/EU

Article 9 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.*

Amendment

Those codes *have to be submitted for approval to national regulatory authorities, which may introduce additional provisions regarding the compliance, monitoring and enforcement of such codes. These codes should be subject to a public consultation open to the participation of consumer organisations.*

Or. en

Amendment 136

Angel Dzhambazki

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 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 facilitating* the development of Union codes of conduct;

Or. en

Justification

This amendment seeks to ensure any proposals for Union codes of conduct remain in line with core EU principles of subsidiarity and proportionality.

Amendment 137

Angelika Niebler

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.

Or. de

Amendment 138

Jytte Guteland

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- and **co-regulation** regarding inappropriate audiovisual commercial communications for alcoholic **products**. Those **steps** should be used to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic **products, for instance prohibiting commercial communications for alcoholic products during times when**

children are most likely to be exposed through audiovisual media services.

Or. en

Amendment 139

Jiří Maštálka, Kostas Chrysogonos

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. *Commercial communications for alcoholic beverages and gambling activities shall be kept to a minimum. Member States and the Commission shall encourage the development of self- and co-regulatory codes of conduct in order to achieve this objective.*

Or. en

Amendment 140

Angel Dzhambazki

Proposal for a directive

Article 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 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 facilitating* the

development of Union codes of conduct;

Or. en

Justification

This amendment seeks to ensure any proposals for Union codes of conduct remain in line with core EU principles of subsidiarity and proportionality.

Amendment 141

Jean-Marie Cavada, Marc Joulaud

Proposal for a directive

Article 1 – point 11 a (new)

Directive 2010/13/EU

Article 9 a (new)

Text proposed by the Commission

Amendment

(11a) The following article is inserted :

Article 9a

Member States remain free to take appropriate measures ensuring the non-discriminatory 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 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 142

Mady Delvaux

Proposal for a directive

Article 1 – point 11 a (new)

Directive 2010/13/EU

Article 9 a (new)

Text proposed by the Commission

Amendment

(11a) The following article is inserted :

Article 9a

Member States may take appropriate measures to ensure 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.

Or. en

Amendment 143

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

Proposal for a directive

Article 1 – point 13

Directive 2010/13/EU

Article 11 – paragraph 2

Text proposed by the Commission

Amendment

2. Product placement shall be admissible in all audiovisual media

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*.

services, except in news and current affairs programmes, consumer affairs programmes, religious programmes and *children's* programmes, *which should be understood as programmes produced for and aimed at children*.

Or. en

Justification

This amendment reflects the justification, and is consistent with the change of wording proposed for, Recital 16, relating to product placement and "significant children's audience".

Amendment 144

Kostas Chrysogonos, Jiří Maštálka

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 significant children's audience, *in particular children's programmes*.

Or. en

Amendment 145

Jiří Maštálka, Kostas Chrysogonos

Proposal for a directive

Article 1 – point 13

Directive 2010/13/EU

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 146

Jiří Maštálka

Proposal for a directive

Article 1 – point 13

Directive 2010/13/EU

Article 11 – paragraph 4 – point a (new)

Text proposed by the Commission

Amendment

(aa) unhealthy foods and beverages

Or. en

Amendment 147

Jytte Guteland

Proposal for a directive

Article 1 – point 13

Directive 2010/13/EU

Article 11 – paragraph 4 – point a (new)

Text proposed by the Commission

Amendment

(aa) alcoholic beverages and other alcoholic products or product placement from undertakings whose principal activity is the manufacture or sale of alcohol and other alcoholic products

Or. en

Amendment 148
Angel Dzhambazki

Proposal for a directive
Article 1 – point 14
Directive 2010/13/EU
Article 12 – subparagraph 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 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. To achieve this, Member States shall encourage co-regulation. The Commission and ERGA shall encourage media service providers to exchange best practices on co-regulatory systems across the Union. Where this results in the recognition of common approaches, the Commission shall consider facilitating the development of Union codes of conduct, in accordance with the principles of subsidiarity and proportionality. 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.

Or. en

Justification

This amendment sees provisions in Article 6a of the amending Directive moved to, and incorporated in, Article 12 (paragraphs 1-3), which deals with the same type of content. The original text of Article 12, subparagraph 1, is retained in this amendment.

Amendment 149

Jiří Maštálka, Kostas Chrysogonos

Proposal for a directive

Article 1 – point 14

Directive 2010/13/EU

Article 12 – subparagraph 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.

Or. en

Amendment 150

Cecilia Wikström

Proposal for a directive

Article 1 – point 14

Directive 2010/13/EU

Article 12 – subparagraph 1

Text proposed by the Commission

Member States shall take appropriate

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 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.

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.

Or. en

Amendment 151
Cecilia Wikström

Proposal for a directive
Article 1 – point 14
Directive 2010/13/EU
Article 12 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that the measures implemented 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, in particular Title III and Article 52 thereof.

Or. en

Amendment 152
Constance Le Grip, Marc Joulaud

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;

Or. en

Amendment 153

Constance Le Grip, Marc Joulaud

Proposal for a directive

Article 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 **40%** share of European works in their catalogue and ensure prominence ***and equivalent quality*** of these works ***as regards the rest of the catalogue***.

Or. en

Amendment 154

Angel Dzhambazki

Proposal for a directive

Article 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

Amendment

1. Member States shall ensure that, ***where practical and by appropriate means***, providers of on-demand audiovisual media services under their

their catalogue *and ensure prominence of these works*.

jurisdiction secure at least a 20% share of European works in their catalogue.

Or. en

Justification

See justification of amendment to Recital 22.

Amendment 155 **Angel Dzhambazki**

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

Text proposed by the Commission

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

Amendment

2. Member States may require providers of on-demand audiovisual media services *established* under their jurisdiction to contribute financially to the production of European works *within their territory*, including via direct investment in content *or* contributions to national funds.

Or. en

Justification

This amendment seeks to protect the integrity of the country of origin principle, which is key to the effective functioning of a single market in broadcasting. Further derogations to the country of origin principle should only be permitted in serious circumstances, such as those already outlined by this Directive, or on grounds of national security. In addition, the Commission has not provided evidence that existing, or additional, levies have or would increase investment in quality European content. See also amendment to Recital 22.

Amendment 156

Constance Le Grip, Marc Joulaud

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**;

Or. en

Amendment 157

Jonás Fernández

Proposal for a directive

Article 1 – point 15 a (new)

Directive 2010/13/EU

Article 17 a (new)

Text proposed by the Commission

Amendment

15a) The following Article 17a is inserted:

'Article 17a

Member States shall ensure that their public radio and television services that offer a specific channel of programmes for viewing in another Member State or other Member States include the most popular programmes and screen them at appropriate times.'

Or. es

Amendment 158

Marc Joulaud

Proposal for a directive

Article 1 – point 16

Directive 2010/13/EU

Article 20 – paragraph 2

Text proposed by the Commission

Amendment

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

deleted

'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.; '

Or. en

Justification

It is necessary to maintain the existing 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 159

Jiří Maštálka

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;

Or. en

Amendment 160

Jiří Maštálka, Kostas Chrysogonos

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 **hourly** proportion of television advertising spots and teleshopping spots within the period between 7:00 and 23:00 shall not exceed 20 % **of advertising in a given hour**.

Or. en

Amendment 161

Constance Le Grip

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 %.

Or. en

Amendment 162

Jytte Guteland

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 daily proportion of television advertising spots and teleshopping spots within **a given clock hour** shall not exceed 20 %.

Or. en

Amendment 163

Angel Dzhambazki, Kosma Złotowski, Zdzisław Krasnodębski

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** shall not exceed 20 %.

Or. en

Justification

This amendment reinstates the wording of Article 23, paragraph 1, and seeks to address the potential negative effect on consumers, and business models based on impact, of the Commission proposal to liberalise quantitative commercial communication rules. The per clock hour system functions well and still enables investment in quality content, whilst avoiding the saturation of prime-time viewing periods with adverts.

Amendment 164
Jytte Guteland

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

Amendment

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% but not to be restricted to each specific clock hour.

Or. en

Amendment 165
Jytte Guteland

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 could consist of prohibiting audiovisual commercial communications during prime time hours.

Or. en

Amendment 166

Jiří Maštálka, Kostas Chrysogonos

Proposal for a directive

Article 1 – point 17

Directive 2010/13/EU

Article 23 – paragraph 2

Text proposed by the Commission

Amendment

2. Paragraph 1 shall not apply to:

deleted

(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;

Or. en

Amendment 167

Angel Dzhambazki

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

(a) self-promotional and cross-promotional announcements made by the

programmes and ancillary products directly derived from those programmes or with programmes from other entities belonging to the same media group;

broadcaster in connection with its own programmes, **audiovisual services** and ancillary products directly derived from those programmes or with programmes from other entities belonging to the same media group;

Or. en

Justification

This amendment aims to facilitate liberalisation in certain areas of commercial communications in order to allow traditional commercial broadcasters to better compete with non-linear services, where there is a reduced risk of negative impact on consumers.

Amendment 168 **Marc Joulaud**

Proposal for a directive

Article 1 – point 17

Directive 2010/13/EU

Article 23 – paragraph 2 – point a

Text proposed by the Commission

(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**;

Amendment

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

Or. en

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 169 **Jytte Guteland**

Proposal for a directive

Article 1 – point 17

Directive 2010/13/EU

Article 23 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) product placements

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

Or. en

Amendment 170

Angel Dzhambazki

Proposal for a directive

Article 1 – point 17

Directive 2010/13/EU

Article 23 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) neutral frames used to distinguish between editorial content and commercial communications, and between commercial communications.

Or. en

Justification

This amendment is a practical measure to ensure that split-second, neutral frames to differentiate between editorial content and commercial communications, which are a requirement on commercial broadcasters, are not included in the 20% per clock hour minutage rules. This allows best use of the time allowed for generating revenue, without unduly impacting on consumers.

Amendment 171

Angel Dzhambazki

Proposal for a directive

Article 1 – point 19

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 **set out in a code of conduct the** measures **they will take** to:

Or. en

Justification

The Commission proposal risks creating unnecessary and potentially inappropriate obligations for VSPs, as well as disproportionately burdensome obligations for national regulators. We consider that the aim of protecting minors can be better achieved through a system of self-regulation. This approach has worked well when enhanced by action and tools to enable parents to better manage the risks to their children. This approach can also be developed and supported through co-regulation, but in a way that continues to rely on industry driven action and joint responsibility.

Amendment 172
Cecilia Wikström

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:

Or. en

Amendment 173
Cecilia Wikström

Proposal for a directive

Article 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 minors from content which may impair their physical *or mental* development;

Or. en

Amendment 174

Cecilia Wikström

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 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 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*.

Or. en

Amendment 175

Constance Le Grip, Marc Joulaud

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 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 **any** incitement to **the commission of terrorist acts or any other form of** 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.

Or. en

Amendment 176

Jiří Maštálka, Kostas Chrysogonos

Proposal for a directive

Article 1 – point 19

Directive 2010/13/EU

Article 28 a – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) make their platform 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. While user-generated content is exempted from this requirement, Member States shall ensure that video-sharing platform providers facilitate the necessary authoring tools for users to create and share accessible content.

Or. en

Amendment 177

Angel Dzhambazki

Proposal for a directive

Article 1 – point 19

Directive 2010/13/EU
Article 28 a – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

This text is moved to Article 1, paragraph 1, point 19 (Article 28a, paragraph 2a (new)).

Amendment 178
Angel Dzhambazki

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

Text proposed by the Commission

Amendment

Those measures shall consist of, as appropriate:

Measures *outlined in such a code of conduct* shall consist of, as appropriate:

Or. en

Amendment 179
Constance Le Grip, Marc Joulaud

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;

Or. en

Amendment 180
Cecilia Wikström

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) ***specifying the characteristics of*** and applying in the terms and conditions of the video-sharing platform providers 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;

Or. en

Amendment 181
Cecilia Wikström

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;

Or. en

Amendment 182
Angel Dzhambazki

Proposal for a directive

Article 1 – point 19

Directive 2010/13/EU

Article 28 a – paragraph 2 – subparagraph 2 – point b a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Previously point (f). Moved as logically sits better after point (b), which also deals with reporting and flagging mechanisms.

Amendment 183
Angel Dzhambazki

Proposal for a directive

Article 1 – point 19

Text proposed by the Commission

(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)**.

Amendment

(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 (e)** and **the extent to which those measures conform with the code of conduct**.

Or. en

Justification

The need to develop dispute resolution mechanisms, and to define who should develop them in respect of any extension of scope of this Directive to VSPs, is not clear from the Commission proposal. This amendment seeks to address this.

Amendment 184
Angel Dzhambazki

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

Text proposed by the Commission

Amendment

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.

Or. en

Justification

This AM is linked to the deletion of Article 1, Paragraph 1, point 19 (Article 28a paragraph 2). If both are adopted this text should become Article 1, Paragraph 1, point 19 (Article 28a – paragraph 2 a (new)).

Amendment 185 **Cecilia Wikström**

Proposal for a directive
Article 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

3. For the purposes of the implementation of the measures referred to in paragraphs 1 and 2, **the Commission** shall encourage co-regulation as provided for in Article 4(7), ***through the adoption of guidelines ensuring that codes of conduct comply with the provisions of this Directive and fully respect the obligations of the Charter of Fundamental Rights of the European Union, in particular Article 52 thereof.***

Or. en

Amendment 186 **Angel Dzhambazki**

Proposal for a directive
Article 1 – point 19
Directive 2010/13/EU
Article 28 a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that video-sharing platform providers conduct and publish regular audits of their performance in accordance with the code of conduct referred to in paragraph 1.

Amendment 187
Cecilia Wikström

Proposal for a directive
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 the ***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 ***an appropriate national authority, which may be*** the authorities designated in accordance with Article 30.

Amendment 188
Angel Dzhambazki

Proposal for a directive
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 ***report on the delivery and effectiveness*** of the measures ***taken in accordance with*** paragraphs 2 and 2a. Member States shall entrust this task to the authorities designated in accordance with Article 30.

Justification

NB. Refers to own paragraph 2 a (new) due to future renumbering.

Amendment 189 **Cecilia Wikström**

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.

Or. en

Amendment 190 **Angel Dzhambazki**

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

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

Moved to and amended by Article 28a – paragraph 2 – subparagraph 2 - point f (Directive 2010/13/EU).

Amendment 191
Angelika Niebler

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

Text proposed by the Commission

Amendment

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.

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.

Or. de

Amendment 192
Angelika Niebler

Proposal for a directive
Article 1 – point 19

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. The Commission may give appropriate publicity to those codes of conduct.

Or. de

Amendment 193
Angel Dzhambazki

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 codes of conduct and amendments to existing codes of conduct. The Commission ***shall give appropriate publicity to those codes of conduct in order to promote the exchange of best practices.***

Or. en

Amendment 194
Mady Delvaux

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. The Commission may request ERGA to give an opinion on the drafts, amendments or extensions of those codes of conduct. ***With due regard for the principle of transparency, the Commission shall make those codes of conduct public.***

Or. fr

Amendment 195

Marc Joulaud

Proposal for a directive

Article 1 – point 19

Directive 2010/13/EU

Article 28 b – paragraph 1

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, ***it shall be deemed to have been established in the Member State where the majority of the workforce operates.***

Or. en

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 196

Marc Joulaud

Proposal for a directive

Article 1 – point 19

Directive 2010/13/EU

Article 28 b – paragraph 2 a (new)

Text proposed by the Commission

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 ERGA to provide an opinion on the matter within 15 working days from the submission of the Commission's request.

Or. en

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 197

Jean-Marie Cavada

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 they are legally distinct and functionally independent *from governments 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.

Or. en

Amendment 198
Cecilia Wikström

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 they are legally distinct and functionally independent *from governments 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.

Or. en

Amendment 199
Axel Voss

Proposal for a directive
Article 1 – point 21

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 they are legally distinct **from government** 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

Or. en

Justification

Member States must guarantee the independence of regulatory authorities. The formulation “legally distinct and functionally independent” does not take into account the specificity of the audio-visual sector, and in particular the variety of regulatory authorities and supervisory bodies in dual broadcasting systems across Member States. It should be clarified that regulatory authorities have to be legally distinct from the government and that the organization as a separate legal entity is one possibility to ensure independence but not the only one.

Amendment 200
Angelika Niebler

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 they are 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 201
Jean-Marie Cavada

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

Text proposed by the Commission

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.

Or. en

Amendment 202
Cecilia Wikström

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

Text proposed by the Commission

Amendment

1 a. 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.

Or. en

Amendment 203

Mady Delvaux

Proposal for a directive

Article 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 authorities exercise their powers ***independently***, impartially and transparently and in accordance with the objectives of this Directive, ***regarding*** in particular media ***independence and*** pluralism, cultural diversity, consumer protection, internal market and the promotion of fair competition.

Or. en

Amendment 204

Jean-Marie Cavada

Proposal for a directive

Article 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 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.

Or. en

Amendment 205

Cecilia Wikström

Proposal for a directive

Article 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 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.

Or. en

Amendment 206

Jean-Marie Cavada

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.

Or. en

Amendment 207

Cecilia Wikström

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.

Or. en

Amendment 208
Angelika Niebler

Proposal for a directive
Article 1 – point 21
Directive 2010/13/EU
Article 30 – paragraph 3

Text proposed by the Commission

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.

Amendment

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 **by the respective Member States in accordance with national statutory provisions**.

Or. de

Amendment 209
Angelika Niebler

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

Text proposed by the Commission

Amendment

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

deleted

Or. de

Amendment 210

Mady Delvaux

Proposal for a directive

Article 1 – point 21

Directive 2010/13/EU

Article 30 – paragraph 4

Text proposed by the Commission

Amendment

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

4. Member States shall ensure that national regulatory authorities have adequate enforcement powers to carry out their functions effectively ***in accordance with this Directive and Union law.***

Or. en

Amendment 211

Angelika Niebler

Proposal for a directive

Article 1 – point 21

Directive 2010/13/EU

Article 30 – paragraph 5

Text proposed by the Commission

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

deleted

advance in national law. A dismissal decision shall be made public and a statement of reasons shall be made available.

Or. de

Justification

Contrary to the subsidiarity principle.

Amendment 212

Jean-Marie Cavada, Marc Joulaud

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**.*

Or. en

Amendment 213

Cecilia Wikström

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***.

Or. en

Amendment 214
Angelika Niebler

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 also ensure that national regulatory authorities have adequate financial and human resources to enable them to carry out the task assigned to them.

Or. de

Amendment 215
Cecilia Wikström

Proposal for a directive
Article 1 – point 21

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 ERGA under this Directive*.

Or. en

Amendment 216
Jean-Marie Cavada, Marc Joulaud

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 ERGA under this Directive*.

Or. en

Amendment 217
Angelika Niebler

Proposal for a directive

Article 1 – point 21

Directive 2010/13/EU

Article 30 – paragraph 7

Text proposed by the Commission

Amendment

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. *deleted*

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.;

Or. de

Justification

Contrary to the subsidiarity principle.