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Committee on Industry, Research and Energy

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DRAFT OPINION

of the Committee on Industry, Research and Energy

for the Committee on Culture and Education

on the proposal for a directive of the European Parliament and of the Council 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 (COM(2005)0646 – C6-0443/2005 – 2005/0260(COD))

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SHORT JUSTIFICATION

- The directive that we are called upon to discuss and approve updates the 1999 Directive 89/552/EEC, the object of which was to enable television broadcasts to be freely disseminated to all parts of the EEC.
- What has changed since that time is that technological advances have greatly increased the number of platforms through which audiovisual content can be transmitted and received. Above all, however, they have fundamentally altered the distinctive features of the business model applying in the audiovisual sector. The seller's market, as it once was, has gradually turned to a consumer's market; having once been passive recipients of a supply determined de facto solely by the distributor, consumers have come to occupy a position – and, most importantly, will do so more and more in the future – in which they alone can decide what they will consume.
- One factor already brought into play by this new economic model and – it should be stressed – certain to become even more decisive in the future is the radical change regarding the sources of funding for the audiovisual industry where both production and distribution are concerned. The two traditional forms of financing, in other words licence fees and advertising revenue, have increasingly been losing ground to a payment system determined according to the nature and quality of the audiovisual service that users require. The economic importance of this industrial sector is therefore likely to grow steadily and substantially, and, of course, global competition will become keener.
- The above scenario accordingly makes it even more necessary and imperative to complete a genuine single European market on a scale enabling it to compete with the expanding Indian, Latin American, and Chinese markets, as well as with the American market, and to operate beyond language barriers or the many and varied forms of national regulation. Secondly, the necessary rules need to be laid down in order to keep pace with, support, and foster ongoing technological development, bearing in mind not least that, in future, consumer interests will be accommodated to an ever greater degree by the breadth of choice offered by technology as such.
- It should also be recognised, however, that the particular nature of the product in question – audiovisual services – poses specific problems related to some extent to the still very marked diversity of feeling within national societies as well as the need to respect a value, cultural identity, protection of which is an essential defining characteristic of the 'European model'.
- It is important to bear in mind in addition that, contrary to what happened in 1989, the Union has decided to centre its policy strategy on a leading geopolitical and geo-economic role to be defined as the global economy develops: this is the 'Lisbon strategy, adopted in 2000, the aim of which is that, by 2010, the Union should become *'the most dynamic and competitive knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment'*.
In view of the above it is obvious that the future of the economic sector to which the directive relates will be crucial to the success of this strategy. A regulatory framework thus needs to be laid down, proceeding from the imperative, applying also to other Union policy goals, of enabling European industry to hold its own at global level against competitors from other parts of the world. The revision of

Directive 89/552/EEC will need to move in that direction and hence be couched in terms serving to reconcile the interests of the public as a whole, consumers, and the industry. Indeed, the approach to be adopted should seek to bring these various interests into a synergic relationship.

- From that point of view the Commission's proposed text constitutes a substantial advance in the desired direction and should consequently be approved by Parliament, which should reject the alternatives of either continuing the approach based on the existing regulatory framework (the Television without Frontiers Directive for 'linear services' only and the E-Commerce Directive for non-linear services) or amending specific rules governing linear services.
- Defining 'audiovisual media services' is an aim that can be endorsed, although the scope of 'non-linear media services' ought to be marked out more exactly so as to enable a clearer distinction to be drawn between services and media services. Some fear – rightly – that if the scope were defined too sweepingly, Europe might be less able to explore new ways of communicating new products. The amendments which we are proposing in this opinion should be viewed as means to the end described above.
- Our amendments likewise aim to strengthen the fabric of the European industry, especially where content production is concerned, so as to enable it to compete not just with American rivals, but also with rivals in the making from India, Latin America, and Japan.

There has to be a proper system for administering rights to exploit audiovisual content, which should serve to consolidate an independent content production industry. This general context ought, therefore, to be taken into account in the appropriate quarters, and the aims of the directive under consideration here should be dovetailed into it.

The same philosophy also militates in favour of proper regulation of 'product placement' and non-punitive rules to govern advertising as a whole, bearing in mind that if consumers have a wider choice, the industry will be compelled to steer clear of options contrary to their interests, given that variety will encourage consumers to opt for products that they consider better and more to their taste. This change in users' needs and expectations reduces the need for supervision by the public authorities.

- Finally, we should like to make out a case for self-regulation, even in addition to co-regulation. We are aware that the possibility of legislating in this direction is greatly limited by the *Interinstitutional Agreement on Better Law-making*, adopted on 31 December 2001. However, technological change, as it affects market rules, is so rapid that appropriate regulation is required in order to accommodate the need to safeguard values and aims of general interest while guaranteeing the necessary flexibility and competitiveness for European industry.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on Culture and Education, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1

RECITAL 1

(1) Directive 89/552/EEC coordinates certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of broadcasting activities. However, new technologies in the transmission of audiovisual media services call for adaptation of the regulatory framework to take account of the impact of structural change and technological developments on business models, especially the financing of commercial broadcasting, and to ensure optimal conditions of competitiveness for Europe's information technologies and its media industries and services.

(1) Directive 89/552/EEC coordinates certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of broadcasting activities. However, new technologies in the transmission of audiovisual media services call for adaptation of the regulatory framework to take account of the impact of structural change, ***the diffusion of information and communication technologies (ICTs)*** and technological developments on business models, especially the financing of commercial broadcasting, and to ensure optimal conditions of competitiveness for Europe's information technologies and its media industries and services.

Justification

The diffusion of information and communication technologies has had a major impact on societal and economic structures. In particular, their diffusion has triggered further technological developments that have changed the structures and the function of numerous business models.

Amendment 2

RECITAL 4

¹ Not yet published in OJ.

(4) Traditional audiovisual media services and emerging on-demand services offer significant employment opportunities in the Community, particularly in small and medium-sized enterprises, and stimulate economic growth and investment.

(4) Traditional audiovisual media services and emerging on-demand services offer significant employment opportunities in the Community, particularly in small and medium-sized enterprises, and stimulate economic growth and investment, ***improving living conditions and thereby strengthening the competitiveness of European enterprises.***

Justification

The creation of jobs and the availability of significant employment opportunities are a factor of paramount importance for boosting the industrial sector in Europe. The promotion of growth and productivity in all industrial sectors is one of the most important goals of the European Community.

Amendment 3

RECITAL 5

(5) Legal uncertainty and a non-level playing field exist for European companies delivering audiovisual media services as regards the legal regime governing emerging on-demand services, it is therefore necessary, both to avoid distortions of competition and to improve legal certainty, to apply at least a basic tier of coordinated rules to all audiovisual media services.

(5) Legal uncertainty and a non-level playing field exist for European companies delivering audiovisual media services as regards the legal regime governing emerging on-demand services, *and* it is therefore necessary, both to avoid distortions of competition, ***to contribute to the completion of the internal market and to a single information space*** and to improve legal certainty, to apply at least a basic tier of coordinated rules to all audiovisual media services.

Justification

The reason for drawing up a new directive is to update the legal provision in view of recent technological developments on the market and offer market players one legal text for safeguarding broadcasting activities, contributing thus to the creation of a single information space, one of the three pillars of the i2010 initiative.

Amendment 4

RECITAL 6 A (new)

(6a) During the Lisbon European Council in 2000 the European Union launched an ambitious agenda with the aim of making Europe by the year 2010 “the most dynamic and competitive knowledge-based economy in the world”. The Lisbon strategy was relaunched in 2005 during the mid-term review as an essential component for improving welfare, promoting competition and fostering productivity in the EU. To that end, and within the context of the Lisbon strategy, it is necessary to focus on policies which will have a sound impact on completion of the internal market, the reduction of barriers to competition and the uptake of information and communication technologies, with a view to mapping out a path towards a competitive knowledge-based economy.

Justification

The Lisbon strategy has been the major action tool of the EU for boosting the competitiveness of European enterprises and improving welfare and living conditions. It forms the basis for the promotion of the productivity of European industry and the European broadcasting industry is a part of it.

Amendment 5
RECITAL 6 B (new)

(6b) The creation of a strong European industry was one of the major goals set in the Lisbon agenda. To that end, productivity and technological leadership in all sectors of the economy can be achieved through strong investment and use of the available information and communication technologies in a competitive environment that will strike the right regulatory balance, so as to build consumer confidence and integrate convergence in the internal market.

Justification

In the information society productivity and growth of European enterprises can only be achieved through the use of information and communication technologies and through strong investment that will allow leadership in all industrial sectors, including broadcasting.

Amendment 6
RECITAL 6 C (new)

(6c) Promotion of the competitiveness of European industry, of which the audiovisual sector forms an important part, is crucial to attainment of the policy goals of the Lisbon strategy. Therefore, in order to strengthen the competitiveness of the audiovisual industrial sector, adequate means of financing should be promoted within the appropriate regulatory framework.

Justification

In the information society productivity and growth of European enterprises can only be achieved through the use of information and communication technologies and through strong investment that will allow leadership in all industrial sectors, including broadcasting.

Amendment 7
RECITAL 6 D (new)

(6d) Within the context of the Lisbon strategy, it is important to take into account the development of European content production, by drawing up a policy framework with regard, in particular, to ownership and exploitation of rights.

Justification

With the general objective of promoting European industry and the European audiovisual industry, attention should be given also to European content producers. A framework should be drawn up to deal with rights, as the dominance of the distributors in this respect is detrimental.

Amendment 8

RECITAL 7

(7) The Commission has adopted the initiative “i2010: European Information Society” to foster growth and jobs in the information society and media industries. i2010 is a comprehensive strategy designed to encourage the development of the digital economy, against the background of the convergence of information and media services, networks and devices, by modernising and deploying all EU policy instruments: regulatory instruments, research and partnerships with industry. The Commission has committed itself to creating a consistent internal market framework for the information society and media services by modernising the legal framework for audiovisual services, starting with a Commission proposal in 2005 to modernise the Television without Frontiers Directive.

(7) The Commission has adopted the initiative “i2010: European Information Society” to foster growth and jobs in the information society and media industries. i2010 is a comprehensive strategy designed to encourage the development of the digital economy **and the uptake of information and communication technologies (ICTs)**, against the background of the convergence of information and media services, networks and devices, by modernising and deploying all EU policy instruments: regulatory instruments, research and partnerships with industry. The Commission has committed itself to creating a consistent internal market framework for the information society and media services by modernising the legal framework for audiovisual services, starting with a Commission proposal in 2005 to modernise the Television without Frontiers Directive.

Justification

The deployment of the digital economy and the realisation of the information society can only be effectuated through the uptake of information and communication technologies.

Amendment 9 RECITAL 13

(13) The definition of audiovisual media covers all audiovisual mass-media services, whether scheduled or on-demand. However, its scope is limited to services as defined by the Treaty and therefore covers any form of economic activity, including that for public service enterprises, but does not cover non-economic activities, such as purely private websites.

(13) The definition of audiovisual media covers all audiovisual mass-media services, whether scheduled or on-demand. However, its scope is limited to services as defined by the Treaty and therefore covers any form of economic activity, including that of public service enterprises, but does not cover non-economic activities, such as private websites **or other user-generated content that is not normally provided for remuneration.**

Justification

As the Commission itself has highlighted, the directive should not cover non-economic activities. Private websites and other private content such as blogs should not be regulated. The same should be true for semi-private content such as information on local clubs or school events. This also is in conformity with the definition of services in Article 50 of the Treaty. The text should therefore exclude such content expressly from the scope of application.

Amendment 10
RECITAL 14

(14) The definition of audiovisual media services covers mass media in their function to inform, entertain and educate, but excludes any form of private correspondence, such as e-mails sent to a limited number of recipients. The definition also excludes all services not intended for the distribution of audiovisual content, i.e. where any audiovisual content is merely incidental to the service and not its principal purpose. Examples include websites that contain audiovisual elements only in an ancillary manner; such as animated graphical elements, small advertising spots or information related to a product or non-audiovisual service.

(14) The definition of audiovisual media services covers mass media in their function to inform, entertain and educate ***the general public***, but excludes any form of private correspondence, such as e-mails sent to a limited number of recipients. The definition also excludes all services not intended for the distribution of audiovisual content, i.e. where any audiovisual content is merely incidental to the service and not its principal purpose. Examples include websites that contain audiovisual elements only in an ancillary manner; such as animated graphical elements, small advertising spots or information related to a product or non-audiovisual service.

Justification

One of the main features of the services described in this directive, mentioned also in the definition, is transmission to the general public.

Amendment 11
RECITAL 17 A (new)

(17a) The criteria laid down in the definition of audiovisual media services, as contained in point (a) of Article 1 of Directive 89/552/EEC, as hereby amended, and explained further in recitals 13 to 17 of this Directive, must be simultaneously fulfilled.

Justification

It is important to point out and emphasise that the criteria presented by the Commission in recitals 13 to 17 have to be fulfilled simultaneously

Amendment 12
RECITAL 25 A (new)

(25a) Self-regulation constitutes a type of voluntary initiative which gives the possibility to economic operators, the social partners and non-governmental organisations or associations to adopt amongst themselves and for themselves common guidelines at European level. Self-regulation is an alternative method to fulfil the existing provisions and cannot completely substitute the obligation of the legislator. Co-regulation can mean that compliance with the provisions of this Directive is entrusted to self-regulating bodies, without prejudice to the Member States' Treaty obligations.

Justification

The explanation of the concepts of 'co-regulation' and 'self-regulation' in the recitals is necessary in order to allow for the highest level possible of self-regulation in the European Community.

Amendment 13
RECITAL 35

(35) Non-linear audiovisual media services have the potential to partially replace linear services. Accordingly, they should where practicable promote the production and distribution of European works and thus actively contribute to the promotion of cultural diversity. It will be important to regularly re-examine the application of the provisions relating to the promotion of European works by audiovisual media services. Within the framework of the reports set out in *Article 3f paragraph 3*, Member States shall also take into account notably the financial contribution by such services to the production and rights acquisition of European works; the share of European works in the catalogue of audiovisual media services as well as in the effective users' consumption of European works proposed by such services.

(35) Non-linear audiovisual media services have the potential to partially replace linear services **and traditional distribution channels, such as DVD and other physical media**. Accordingly, they should where practicable promote the production and distribution of European works and thus actively contribute to the promotion of cultural diversity. It will be important to regularly re-examine the application of the provisions relating to the promotion of European works by audiovisual media services. Within the framework of the reports set out in *Article 3f(3)*, Member States shall also take into account notably the financial contribution by such services to the production and rights acquisition of European works; the share of European works in the catalogue of audiovisual media services as well as in the effective users' consumption of European works proposed by such services.

Justification

Unlike traditional distribution channels, online services offer huge opportunities for European and independent content.

Promoting online services is therefore the most appropriate way to stimulate a wider diffusion of European audiovisual works, ensuring at the same time their availability for new distribution channels.

In this context, a fundamental precondition for respecting competition is to refrain from discriminating between the different distribution markets, i.e. the online distributors in front of the traditional distribution channels, such as pay-TV, DVD or other physical media.

Amendment 14
RECITAL 43

(43) The Directive is intended to safeguard the specific character of the European television landscape and therefore limits possible interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection.

(43) The Directive is intended to safeguard the specific character of the European television landscape **and promote the European media industry**, and therefore limits possible interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection.

Justification

Within the content of the Lisbon agenda and the goal of promoting the European industry and fostering growth and productivity, the promotion of the European media industry and of European media production should be of paramount importance within the audiovisual context.

Amendment 15
RECITAL 47

(47) Regulators should be independent from national governments as well as from audiovisual media service providers in order to be able to carry out their work impartially and transparently and to contribute to pluralism. Close cooperation among national regulatory authorities and the Commission is necessary to ensure the correct application of this Directive,

(47) Regulators should be independent from national governments as well as from audiovisual media service providers in order to be able to carry out their work impartially and transparently and to contribute to pluralism. Close cooperation among national regulatory authorities and the Commission **as well as national regulatory authorities among themselves** is necessary to ensure the correct application of this Directive,

Justification

Cooperation is of vital importance. In this respect cooperation should take place not only between the NRAs and the Commission, but also between NRAs themselves.

Amendment 16
ARTICLE 1, POINT 2
Article 1, point (c) (Directive 89/552/EEC)

(c) ‘television broadcasting’ or ‘television broadcast’ *mean a linear audiovisual media service where a media service provider decides upon the moment in time when a specific programme is transmitted and establishes the programme schedule;*

(c) **‘linear service’ or** ‘television broadcasting’ or ‘television broadcast’ *means the initial transmission by any means, in unencoded or encoded form and in a chronological sequence, of different programmes. These programmes are transmitted to the user’s device at a point in time decided upon by the media service provider, in accordance with a programme schedule, and simultaneously to an indeterminate number of potential television viewers. This definition includes the communication of programmes between undertakings with a view to their being relayed to the public. It does not include services providing items of information or other messages or images at the individual request of a recipient of services;*

Justification

In this paragraph the definition of linear services, i.e. television broadcasting, is included. Within the general concept of audiovisual media services it is important to define what linear, i.e. television broadcasting, and non-linear mean. The characteristics are presented in detail, pointing out the basic features of the linear service

Amendment 17

ARTICLE 1, POINT 2

Article 1, point (e) (Directive 89/552/EEC)

(e) ‘non-linear service’ means an audiovisual media service *where the user decides upon the moment in time when a specific programme is transmitted on the basis of a choice of content selected by the media service provider;*

(e) ‘non-linear service’ means an audiovisual media service, *delivered via an electronic communications network within the meaning of Article 2(a) of Directive 2002/21/EC of the European Parliament and of the Council, including cable, satellite, or terrestrial television, IP television or mobile networks, which has the following additional characteristics:*

- *the user makes an individual request for a specific service (including a subscription service) on the basis of a choice of content selected by the media service provider;*

- *the service incorporates content which is of a kind suitable to be shown in a linear service, for example feature-length films, sports events, and programmes in a format already established for television distribution such as situation comedy, documentary, children’s programmes and original drama;*
- *the format, presentation and means of access to the service might lead the user to expect similar regulatory protection to apply as for linear services;*

Justification

In this definition of non-linear services, an attempt is made to include as many characteristics as possible. The first subparagraph underlines the fact that for the provision of a non-linear service it is important that the user makes the request for the provision of a service on the basis on a choice of content provided to the user by the media service provider. The second subparagraph allows the ‘catching’ of ‘TV-like’ content only, leaving outside of the scope other types of video content. It achieves the Commission’s objective of creating a ‘level playing field’ for non-linear services and existing broadcast services, so that (for instance) video on demand is not rendered attractive as a distribution platform solely because it evades existing restrictions on forms of advertising in TV formats.

Amendment 18

ARTICLE 1, POINT 2

Article 1, point (f) (Directive 89/552/EEC)

(f) ‘audiovisual commercial communication’ means moving images with or without sound which accompany audiovisual media services **and are designed to promote**, directly or indirectly, **the goods, services** or image of a natural or legal entity pursuing an economic activity;

(f) ‘audiovisual commercial communication’ means moving images with or without sound audiovisual media services **with the aim of** directly or indirectly **promoting the sale of goods and services** or **the** image of a natural or legal entity pursuing an economic activity;

Justification

The definition of promotion must – as in points (g) and (i) – be construed subjectively in order to achieve appropriate results. Otherwise, each mention of a product or a service could, for editorial reasons, fall under the definition of ‘audiovisual commercial communications’ if it is objectively seen to promote sales without this actually being the intention. On the other hand, a genuine advertisement could be qualified as ‘audiovisual commercial communications’ if it had no impact and were therefore objectively seen not to promote sales,

although this was the purpose intended.

Amendment 19
ARTICLE 1, POINT 2
Article 1, point (k) (Directive 89/552/EEC)

(k) ‘product placement’ means any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within audiovisual media services, **normally** in return for payment or for similar consideration.”

(k) ‘product placement’ means any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof **by or at the request of the media service provider** so that it is featured within audiovisual media services, in return for payment or for similar consideration.”

Justification

In practice media service providers regularly procure ready-made content from third parties. They then frequently have no chance to determine whether such a programme includes product placement content. Nor do they have any chance to exert influence on it.

Amendment 20
ARTICLE 1, POINT 6
Article 3 f, paragraph 1 (Directive 89/552/EEC)

1. Member States shall ensure that media service providers under their jurisdiction promote, where practicable **and** by appropriate means, production of and access to European works within the meaning of Article 6.

1. Member States shall ensure that media service providers under their jurisdiction promote, where practicable, by appropriate means **and respecting competition between different distribution markets**, production of and access to European works within the meaning of Article 6.

Justification

Unlike traditional distribution channels, online services offer huge opportunities for European and independent content.

Promoting online services is therefore the most appropriate way to stimulate a wider diffusion of European audiovisual works, ensuring at the same time their availability for new distribution channels.

In this context, a fundamental precondition for respecting competition is to refrain from discriminating between the different distribution markets, i.e. the online distributors in front of the traditional distribution channels, such as pay-TV, DVD or other physical media.

Amendment 21

ARTICLE 1, POINT 6

Article 3 h, paragraph 1 (Directive 89/552/EEC)

1. Audiovisual media services that are sponsored or that contain product placement shall meet the following requirements:

(a) the scheduling, where appropriate, and the content of such audiovisual media services may in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

(b) they must not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;

(c) viewers must be clearly informed of the existence of a sponsorship agreement and/or the existence of product placement.

Sponsored programmes must be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in a appropriate way for programmes at the beginning, during and/or the end of the programmes. Programmes containing product placement must be appropriately identified at the start of the programme in order to avoid any confusion on the part of the viewer.

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(a) the scheduling, where appropriate, and the content of such audiovisual media services may in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

(b) they must not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;

(c) viewers must be clearly informed of the existence of a sponsorship agreement and/or the existence of product placement.

(ca) Sponsored programmes must be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in a appropriate way for programmes at the beginning, during and/or the end of the programmes.

(cb) Programmes containing product placement must be appropriately identified at the start of the programme in order to avoid any confusion on the part of the viewer.

Justification

Separated paragraphs due to different content.

Amendment 22
ARTICLE 1, POINT 7, POINT (D A) (new)
Article 6 (Directive 89/552/EEC)

(da) The following paragraph is added:

“Member States, in defining the notion of independent producer, should take appropriate account of the following three criteria: ownership of the production company, the amount of programmes supplied to the same broadcaster and ownership of secondary rights.”

Justification

The reference to independence is of importance and very closely related to the concept of rights. The fact that the market is concentrated and power exercised by a few players in the acquisition of rights means that independent production companies are unable to fully exploit new forms of content distribution and to retain rights, and independent production companies are unable to attract capital and growth, remaining thus heavily funded with a level of concentration which is blocking innovation.

Amendment 23
ARTICLE 1, POINT 10
Article 11, paragraph 2 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **35** minutes.

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **30** minutes.

Justification

The extension of the 30-minute rule currently applicable to news and children's programmes to 35 minutes would have a severe negative impact on broadcasters' advertising revenue and hence their ability to finance audiovisual content production. As most news and children's programmes are no longer than 30 minutes, this may effectively eliminate advertising from these programmes. There seems to be no explanation or justification for this measure in the Commission's proposal or its regulatory impact assessment.

Amendment 24

ARTICLE 1, POINT 17

Article 20 (Directive 89/552/EEC)

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11(2) and Article 18 in respect of broadcasts intended solely for the national territory which cannot be received, directly or indirectly by the public, in one or more other Member States ***and in respect of broadcasts having no significant impact in terms of audience share.***"

Without prejudice to Article 3, Member States may, with due regard for Community law, lay down conditions other than those laid down in Article 11(2) and Article 18 in respect of broadcasts intended solely for the national territory which cannot be received, directly or indirectly by the public, in one or more other Member States."

Justification

The last sentence makes a reference to a significant impact in terms of audience share. This concept requires further explanation and analysis of what is considered to be a market in terms of competition law.