



COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0117 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on the adoption of a Recommendation of the European
Parliament and of the Council on the protection of minors and human dignity and on
the right of reply in relation to the competitiveness of the European audiovisual and on-
line information services industry**

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council 30.4.2004.
(document COM(2004) 341 final – 2004/0117 (COD):

Date of the opinion of the European Economic and Social Committee: 9.2.2005.

Date of the opinion of the European Parliament, first reading: 7.9.2005.

Date of transmission of the amended proposal: 23.1.2006.

Date of adoption of the common position: 18.9.2006.

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The proposal is for a Recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry. The proposal is a follow-up to the Second Evaluation Report from the Commission to the Council and the European Parliament on the application of Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity.

3. COMMENTS ON THE COMMON POSITION

The Council made some substantive changes relative to the Commission's proposal (as amended by the Commission's Amended proposal of 20 January 2006) that are for the most part acceptable because they will help ensure that the Recommendation's aims are ultimately achieved.

Throughout the text, compared with the Commission's proposal, some wording has been

changed either to enhance clarity or to ensure coherence within the proposed Recommendation.

Recitals

In recital 17, which deals with the portrayal of the sexes in the media and in advertising, the last part of the sentence: "and, if necessary, take appropriate measures" was removed. The Commission has no objections to deletions of this part. No other substantive changes were made in the recitals.

Operative part

As to the substance of the operative part, the following changes have been made:

Under I, Point 2(a), the part "and, for instance, by continuous training within school education" was added. The Commission has no objection to this example being added.

Under I, Point 2(c), the provision "action to inform citizens more about the possibilities offered by the Internet" was added. The Commission welcomes this provision being added.

Under II, Point 1, the phrases "for instance by means of filtering systems" and "or warning messages" were added. The Commission has no objection to these examples being added.

Under II, Point 2 has been reworded to read: "examine the possibility of creating filters which would prevent information offending against human dignity from passing through the Internet". Even though this provision no longer makes specific reference to "material containing child pornography", the Commission deems that such material would be covered by "information offending against human dignity". Therefore, the Commission has no objections to this rewording.

Under II, Point 3, the part "using systems to filter information exchanged among users" was removed. Since, the essential part of the provision, "develop measures to increase the use of content labelling systems... ", is still there, the Commission has no objections to this rewording.

Under II, Point 4 was reworded to read: "consider effective means of avoiding and combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in audiovisual and on-line information services and of promoting a diversified and realistic picture of the skills and potential of men and women in society." This rewording does not change the substance of this provision. Therefore, the Commission has no objections to this rewording.

In the section that starts with "TAKE NOTE THAT THE COMMISSION", under point 1, the part "benefits and" has been added. The Commission has no objection to this clarification with regard to the intended promotion of information actions in connection with the 2005-2008 multi-annual Community programme on promoting safer use of the Internet and new on-line technologies.

In the same section, under point 6, the following part has been added: "intends to submit to the European Parliament and the Council, on the basis of information supplied by the Member States, a report on the implementation and effectiveness of the measures specified in this Recommendation, and to review this Recommendation if and when the need arises." This

addition is acceptable to the Commission and it would also address the issues in the proposed provisions (EP's amendments 35 and 36) recommending that the Member States submit a report to the Commission on measures taken to apply this Recommendation and that on the basis of the reports submitted by the Member States, the Commission would submit to the European Parliament a report on the measures laid down in this Recommendation. Therefore, the Commission considers that in view of this new provision these latter provisions would not be indispensable.

Annexes

There are only minor substantive changes in Annex I: "minimum principles" were changed back into "indicative guidelines"; and the last sentence, "Member States shall ensure that the effective exercise of the right of reply (or equivalent remedies) and the right of freedom of expression is not unjustifiably constrained", was left out of the Council's common position. The Commission can accept going back to "indicative guidelines" and agrees with the Council that the sentence "Member States shall ensure that the effective exercise of the right of reply (or equivalent remedies) and the right of freedom of expression is not unjustifiably constrained" is superfluous.

Even though two of the "Examples of possible actions concerning media literacy" in Annex II were deleted and the rest of the examples were reworded by the Council, the substance of the principles underpinning these examples remains the same. Therefore, the Commission can accept these changes.

All the "Examples of possible actions by the industries and the parties concerned for the benefit of minors" in Annex III were reworded by the Council. Since the substance of these examples remains the same, the Commission can accept these changes.

4. CONCLUSION

The Council accepted in full, in part or in principle, as did the Commission in its amended proposal, amendments 1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 33, 35, 36, 37 and 38. Furthermore, the Council has followed the line taken by the Commission in its amended proposal and did not include amendments 3, 5, 13, 27, 32 and 34 in its common position.

The Commission considers that the common position, adopted on 18 September 2006 by a qualified majority, respects to a large extent the objectives, and the approach of its own proposal, and that the Council has taken due account of the European Parliament's concerns and priorities and was able to accept most of Parliament's amendments. The Commission therefore grants its support and looks forward to an agreement between the Parliament and the Council in the near future with a view to the early adoption of the Recommendation.