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REPORT

on Television without Frontiers (2003/2033(INI))

Committee on Culture, Youth, Education, the Media and Sport

Rapporteur: Roy Perry

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PROCEDURAL PAGE

By letter of 6 January 2003 the Commission forwarded to Parliament its fourth report on 'Television without Frontiers' (COM(2002) 778) which had been referred to the Committee on Culture, Youth, Education, the Media and Sport for information.

At the sitting of 13 March 2003 the President of Parliament announced that the Committee on Culture, Youth, Education, the Media and Sport had been authorised to draw up an own-initiative report on the subject, pursuant to Rules 47(2) and 163, and that the Committee on Legal Affairs and the Internal Market had been asked for its opinion.

The Committee on Culture, Youth, Education, the Media and Sport had appointed Roy Perry rapporteur at its meeting of 21 January 2003.

The committee considered the draft report at its meetings of 22-23 May and 12 June 2003.

At the latter meeting it adopted the motion for a resolution by 21 votes to 1, with 2 abstentions.

The following were present for the vote: Michel Rocard, chairman; Mario Mauro, vice-chairman; Theresa Zabell, vice-chairman; Roy Perry, rapporteur; Alexandros Alavanos, Konstantinos Alyssandrakis (for Lucio Manisco), Ole Andreasen (for Marieke Sanders-ten Holte), Pedro Aparicio Sánchez, Juan José Bayona de Perogordo, (for Francis Decourrière), Carlos Bautista Ojeda (for Daniel Marc Cohn-Bendit, pursuant to Rule 153(2)), Michl Ebner (for Pietro-Paolo Mennea), Raina A. Mercedes Echerer, Janelly Fourtou (for Domenico Mennitti), Geneviève Fraisse, Lissy Gröner, Cristina Gutiérrez Cortines (for Stavros Xarchakos), Ulpu Iivari, Karin Junker (for Renzo Imbeni), Maria Martens, Juan Ojeda Sanz, Doris Pack, Christa Prets, Sabine Zissener, Peder Wachtmeister (for Marielle de Sarnez), Phillip Whitehead (for Barbara O'Toole), Eurig Wyn and Myrsini Zorba (for José María Mendiluce Pereiro).

The opinion of the Committee on Legal Affairs and the Internal Market is attached.

The report was tabled on 25 June 2003.

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Television without Frontiers (2003/2033(INI))

The European Parliament,

- having regard to the report from the Commission (COM (2002) 778 - C5-0069/2003),
 - having regard to Directive 97/36/EC 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 activities¹,
 - having regard to its resolution of 6 September 2000 on the Communication from the Commission 'Principles and guidelines for the Community's audiovisual policy in the digital age'²,
 - having regard to its resolution of 11 April 2002 on the evaluation report from the Commission to the Council and the European Parliament on the application of Council Recommendation of 24 September 1998 concerning the protection of minors and human dignity³,
 - having regard to its resolution of 4 October 2001 on the third report of the Commission to the Council, the European Parliament and the Economic and Social Committee on the application of Directive 89/552/EEC 'Television without Frontiers'⁴,
 - having regard to its resolution of 26 September 2002 on a European Union Action Plan for the successful introduction of digital television in Europe⁵,
 - having regard to its resolution of 20 November 2002 on media concentration,
 - having regard to Rules 47(2) and 163 of its Rules of Procedure,
 - having regard to the report of the Committee on Culture , Youth, Education, the Media and Sport and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0251/2003),
- A. whereas, in the Commission's judgment, the 'Television without Frontiers' Directive is generally being applied satisfactorily, the free movement of television broadcasting services within the Community having essentially been ensured,

¹ OJ L 6, 10.1.1998, p. 43.

² OJ C 135, 7.5.2001, p. 83.

³ PT_TAPROV(2002)0182.

⁴ OJ C 87, 11.4.2002, p. 156.

⁵ (P5_TA-PROV(2002)0454).

- B. whereas application of the Directive is the responsibility of the relevant national authorities, and whereas the dialogue between Community bodies and national institutions provided for in the Directive has been fruitful,
- C. whereas, with regard to the application of the rules on advertising, it is to be welcomed that the proceedings initiated against certain Member States led them to take appropriate measures; whereas, however, new appeals have been submitted, often by consumers' associations, and whereas the increased level of consumer interest, together with new advertising techniques, make it necessary to coordinate the rules set out in the Directive, with all commercial practices falling within the sphere of consumer protection policy,
- D. whereas the audiovisual sector is of fundamental importance for democracy, diversity of opinion, pluralism and cultural diversity and contributes to technological innovation, economic growth, the creation of jobs and the functioning of the single market,
- E. whereas the Television Directive performs an important function as a Directive setting minimum standards,
- F. whereas the current Directive was adopted before the advent of the Internet and the possibility of content being disseminated by different technological platforms, and whereas the development of digital broadcasting will, however, see the emergence of a plethora of new services on offer, such as interactive and retrieval services, account of which must be taken in legislation,
- G. whereas public service broadcasting constitutes an essential factor for democratic opinion-forming and the dissemination of the cultural diversity of Europe, and whereas, therefore, market access on an equal footing must be guaranteed,
- H. whereas there is substantial and growing interaction between television broadcasting and new information society services, and whereas, therefore, a flexible approach to regulation is necessary,
- I. whereas the current technological developments are accompanied by threats to media pluralism and the free flow of information, for example in the form of what are known as 'gatekeeper' positions and of the possibility of encryption,
- J. whereas the successful implementation of the provisions set out in Article 3a help to prevent broadcasters under the jurisdiction of other Member States from committing infringements on the basis of national provisions and to prevent the exercise of exclusive rights in such a way that a substantial proportion of the public in another Member State is deprived of the possibility of following a designated event, and whereas, therefore, a more detailed picture should be given both of the content of the events included in the list and of the number of viewers who can follow these events,
- K. whereas there is evidence of growing concentration of ownership and control in television broadcasting, both in the current and in the future Member States,

General remarks

1. Welcomes the transposition of the amended Directive into national law in all of the current Member States and the alignment of national law in the accession countries with Community law in the audiovisual field;
2. Notes the Commission's conclusion that the Directive has provided a flexible, but adequate, framework for regulation by the Member States and self-regulation by the audiovisual industry; notes, further, that the Directive has, to date, been of major importance as a Directive setting minimum standards;
3. Recalls that, in spite of the above, infringement proceedings have been initiated against some Member States for poor application of the rules on advertising;
4. Notes the role that the audiovisual sector will play in the attainment of the objective set out at the Lisbon Summit of making Europe the most dynamic, knowledge-based economic area in the world; notes, further, the importance of the audiovisual sector in supporting democracy, freedom of expression, pluralism and cultural diversity;
5. Notes that the Directive is complemented by the Community's Media Plus programme; welcomes the Commission's recent decision to propose an extension of the latter to the end of 2006;
6. Welcomes the Commission's commitment to consult as widely as possible about the future of the audiovisual sector in Europe and about the need to revise the Directive to take account of recent technological changes and shifts in the structure of the market for audiovisual products, while encouraging European production and the growth of the European broadcasting industry;

The scope of the Directive

7. Notes that an element of legal uncertainty has now arisen as a consequence of the difficulty in interpreting how the Directive should be applied to split-screen, interactive services and advertising or sponsorship linked to the use of virtual imaging technology; notes, further, that any interpretation of advertising rules must help to preserve the integrity of broadcast works;
8. Welcomes the Commission's intention to provide, by the end of 2003, interpretations of how the current Directive might be applied to such forms of advertising; expects, however, that the European Parliament will be appropriately involved in the issue;
9. Reiterates, nevertheless, its belief that a thorough revision of the Directive is necessary to take account of technological developments and changes in the structure of the audiovisual market; believes, however, that the nature of the Directive as one setting minimum rules should be maintained;
10. Believes that the definition of audiovisual content must be expanded to take account of media convergence at the technical level; believes, further, that the principles

underlying the Directive, and, indeed, those underlying the Community's audiovisual policy should be set down in a Content Framework Package of graduated levels of regulation, which would provide an overarching framework for the audiovisual sector;

11. Believes that such a Content Framework Package should consolidate Community law, bringing together revised versions of the 'Television without Frontiers' Directive, the e-Commerce Directive and the Directive concerning copyright related to satellite broadcasting and cable retransmission;
12. Calls on the Commission to publish as a set the initiatives for Community policies which it considers to be connected to this sector, such as the Commission's strategy for the audiovisual sector, the commercial communications policy, consumer protection policy and the internal market strategy for the services sector;

Principles underlying the Directive

13. Urges that a revision of the Directive or a Content Framework Package be based on the principles which underlie the current Directive (free movement of European television programmes, free access to events of major importance, the promotion of European and recently-produced independent works, protection of minors and public order, protection of consumers through clear identification and transparency in advertising, and the right of reply);
14. Believes that a commitment to protect cultural diversity in the media and to maintain freedom of expression, diversity of opinion and pluralism, creativity and the right to free access to information must be added to these fundamental principles;
15. Underlines that the manner and degree of regulation of content must be appropriate to the particular medium involved and should be carried out in accordance with the principle of graduated levels of regulation as closely as possible to the activities being regulated;
16. Considers that the practice which has evolved in the practical implementation of the Directive's provisions on protection of minors is a good example of the right balance between framework regulation at Community level, national regulation by the responsible authorities in the Member States, and co- and self-regulation by the industry and that, as a Directive setting minimum standards, it has played a major role; believes that, in the future, it is important that there should be scope for divergent national legislation;
17. Underlines that, as far as advertising and consumer protection is concerned, the regulatory framework must continue to seek to safeguard general interest objectives; considers, however, that regulation of applications of the new technologies requires a more flexible and less prescriptive approach towards advertising than that adopted hitherto; believes that such an approach should emphasise and build on the interest which broadcasters themselves have in maintaining high-quality programming, while taking into account the need to respect the integrity of the audiovisual and cinematographical works broadcast and while bearing in mind the criteria established

for the protection of minors in TV advertising;

18. Welcomes the Commission's intention to investigate whether certain quantitative restrictions on advertising, taking user choice and control options into account, could be more flexibly structured; points out that, as further developments are made in competition law in the context of the 'Television without Frontiers' Directive in the interests of uniform protection for consumers, children and young persons in Europe, existing qualitative advertising rules and regulations should be retained in the context of that Directive;
19. Urges the Commission to support the establishment of a working group of national regulators, including representatives of private and public broadcasting systems, for the exchange of best practice in all forms of regulation including self- and co-regulation in the area of advertising and consumer protection;
20. Calls on the Commission to publish a full picture of the self-regulatory measures taken to date, stating in which sectors these mainly apply, the success of these measures and their consistency with public interest objectives, as well as how far the interests of small bodies or new competitors have been taken into account; finally, with regard to consultations, believes that conditions should be laid down to guarantee the representativeness of the participating bodies and the effective expression of all divergent interests;

Cultural diversity and European awareness

21. Notes that quotas for the broadcast of European works and for recent works by independent producers have been broadly met;
22. Considers that a more detailed picture should be given of the extent to which the measures taken comply with Community law, of the method for defining a 'significant part of the public' with regard to free access to certain events of major importance, and of the degree of convergence between Member States in defining such events;
23. Points to the outstanding issues arising from the discrepancies between fundamental legal concepts which are used as key concepts in the application of the Directive, such as the concepts of a 'European work' and an 'independent producer', and problems caused by the complicated relations between television producers and channels;
24. Notes that there have been some cases of inappropriate application of Articles 4 and 5; calls on the Commission, therefore, to establish a clearer definition of the terms 'European work' and 'independent producer' so as to ensure proper application of such articles;
25. Considers that, if specialist TV services are unable to meet the quota provisions set out in Articles 4 and 5 of the Directive, the qualification that these quotas be adhered to 'where practicable' should be maintained;
26. Calls on the Commission to establish a clear definition of specialist channels and to

establish clearly categories of specialist broadcasting where 'impracticability' would merit a reduction or elimination of requirements for compliance with Articles 4 and 5;

27. Believes that television helps to shape the way in which children see the world; invites the Commission to encourage broadcasters to draw as fully as possible on high-quality and non-violent European works in their programmes aimed at children; supports the concept of a Pan-European Children's Network involving broadcasters from Member States and the applicant countries with the aim of broadcasting high-quality European works Europe-wide;
28. Invites the Commission to take steps to encourage broadcasters to make channels which have a pan-European dimension (such as ARTE and EURONEWS) as widely available as possible and in as many languages as possible and to encourage Europe-wide broadcasts of major European cultural events (such as the Austrian New Year Concert); calls on the Commission to conclude the feasibility study on a European cable channel ('C-SPAN'/ Channel Europe/ Network) to provide the general public with relevant news and information on European Union affairs;
29. Believes that broadcasting organisations should be encouraged to develop European films and audio-visual works.
30. Urges the Commission, in conjunction with all stakeholders, to ensure that the spirit of the measures for listed events of major importance for society is upheld by all parties;
31. Invites the Commission to consider whether greater legal certainty would also be achieved by the introduction of a brief European minimum list of events of major importance for society (i.e. the Olympic Games, the World Cup and the European Nations Championship), which may be complemented by national lists;

Access

32. Urges the Commission to continue to promote interoperability so that full viewer access to digital television is made available as widely as possible;
33. Notes that the granting of exclusive rights, and the absence of a harmonised right to access newsworthy events, could restrict the free movement of information and inhibit the reporting of popular events by a majority of the media; calls on the Commission, therefore, to consider whether measures should be introduced at Community level to guarantee news access for the media to short extracts of events of general interest so as to guarantee the general public's right to information;
34. Notes that levels of sub-titling and sign language interpretation and presentation of programmes in sign language for those with hearing difficulties, and of audiovisual description for the visually impaired, vary quite widely from Member State to Member State; recalls the Commission's commitment given to Parliament in June 2002 to raise this issue in the present report; notes that the Commission has not done so; calls once again on the Commission to address the problem of improving access to the broadcast

media for those suffering from sensory impairment; calls on the Commission, in its work programme, to include an annual benchmarking report on the progress in all EU Member States on making digital TV accessible for people with disabilities; believes that this report should be based on National Action Plans on 'Improving disabled people's access to digital TV' submitted to the Commission by each of the EU Member States;

35. Notes that the rights trading market operates largely within national boundaries or linguistic areas so as to respect media chronology (release and broadcasting) and exploit cinematographical and audiovisual works in an appropriate manner; notes, further, however, that this frequently makes it impossible lawfully to access protected satellite TV channels originating from another Member State; welcomes the Commission's commitment to address this problem in its review of the Directive concerning copyright related to satellite broadcasting and cable retransmission;

Media concentration

36. Reiterates its conviction that pluralism in broadcasting is an important safeguard of democracy, pluralism and cultural diversity in society;
37. Calls on the Commission to enshrine in its revised Television Directive the principle that it is essential for an appropriate balance to be struck between, on the one hand, commercial interests and, on the other, the public interest of free access and cross-border flow of information;
38. Expresses its concern that growing concentration of ownership or control of broadcasting and other media, whether 'horizontal' or 'vertical', may subvert pluralism and democracy;
39. Believes that a commitment to diversity of ownership and/or control of broadcasting, and of broadcasting and other media, should be incorporated in any future Directive, without prejudice to the other initiatives to be undertaken by the Commission as requested by the European Parliament in its resolution of 20 November 2002 on media concentration; hopes that the amendment of Directive 89/552/EC or the new Directives on audiovisual content will include rules on ownership of televisual media that will ensure pluralism in the field of information and culture;
40. Believes that clear limits must be placed on the ownership and control of management of audiovisual communications media;
41. Calls on the Commission to monitor levels of media concentration in Europe and to draw up an updated Green Paper on this issue by the beginning of 2004;
42. Instructs its President to forward this resolution to the Commission, the Council, the Council of Europe, and the governments of the Member States.

EXPLANATORY STATEMENT

THE DIRECTIVE

1. The 'Television without Frontiers' Directive (adopted in 1989 but substantially revised in 1997) is the cornerstone of the European Community's audiovisual policy.

- Its main objective is to promote the free movement of European television programmes within the internal market.
- It is based on the principle of regulation in the country of origin. This means that, except in very limited circumstances (such as broadcasts which may be harmful to minors), a Member State may not create obstacles to the reception or retransmission of broadcasts originating elsewhere in the European Community.
- It also seeks to safeguard important public interest objectives such as cultural diversity and the right of reply and to promote the development of the European audiovisual industry.

THE COMMISSION REPORT

2. The Commission report concludes that the Directive has now been satisfactorily transposed into national law by all Member States. It functions well as a means of ensuring freedom to provide TV services in the Community. Independent national regulatory authorities have been set up, and most Member States have allocated adequate resources to them so as to ensure the effective implementation of the Directive. A separate report on Articles 4 and 5 shows that, generally speaking, channels are meeting the targets set for broadcasting European works and the work of independent producers.

3. **Work programme:** The Commission is also required to propose the changes to the Directive required to keep it in line with 'developments in the field of television broadcasting, in particular in the light of recent technological developments'. It has annexed to its report a work programme which is designed to prepare the way for possible future legislation. This is essentially a reviewing and consultative exercise:

Early 2003: the Commission will launch an independent study of the impact of Community and national measures to promote the production and distribution of European works. This study may be accompanied by ad hoc complementary studies.

April-June 2003: the Commission will organise a series of hearings of interested parties on: events listing; cultural diversity; European competitiveness; protection of public goods in TV advertising, sponsorship and teleshopping; protection of minors and public order; the right of reply; practical issues relating to the application of the Directive; and - a new issue, not covered by the Directive - access to short extracts of events subject to exclusive rights.

July 2003: deadline for submission of written comments.

July-September 2003: adoption of an assessment report on the implementation of the 1998 Recommendation on the protection of minors and human dignity.

Late 2003/early 2004: Adoption of a Communication on the results of public consultations and possible proposals.

RAPPORTEUR'S REMARKS

4. The importance of the audiovisual sector scarcely needs underlining. It will play a leading role in attaining the goal set out by the Lisbon Summit of making Europe the world's leading knowledge-based economic area, and it is an important source of employment. But it also has a wider significance. 98% of households in the EU have a TV set, and the audiovisual sector is of fundamental importance for democracy, freedom of expression and cultural pluralism.

5. We should welcome the fact that all Member States have now transposed the Directive into national law and that the accession countries have brought their legislation into line with the body of Community law in the audiovisual sphere. The Commission is satisfied, overall, with the application of the Directive's provisions on quotas, advertising, and the protection of minors: it has provided a flexible, but adequate, framework for self-regulation by the industry and regulation by Member States.

6. We should also welcome the Commission's commitment to consult as widely as possible with broadcasters, advertisers, consumers, national regulators, policy makers and other interested parties. This consultation process is already late: the Commission originally announced that it would launch it early in 2002 so that it might present its proposals for a revision of the Directive by the end of 2002. The Commission should now seize the opportunity to frame a fundamental revision of the Directive and a consolidation of Community law in this area.

The scope of the Directive

7. Technological progress has been rapid, and the structure of the audiovisual market has changed dramatically: for example, in 1989, when the Directive was adopted, there were only 50 TV channels in Europe; today, there are more than 2 000. But equally dramatic has been - as Parliament's resolution on the Commission's third report on the application of the Directive noted - the advent of new audiovisual services. There is now an element of legal uncertainty about the interpretation of the Directive when applied to some of the applications of new audiovisual services, such as split-screen, interactive services and virtual advertising.

8. The Commission hopes to provide (by the end of 2003) guidance about how the provisions of the current Directive might be interpreted to cover these new forms of advertising. But such fine-tuning can only be a stop-gap: what is needed is a fundamental revision of the Directive to take account of technological developments, their application, and changes in the structure of the audiovisual market. Finally, the complexity of Community law in the audiovisual field - in addition to the 'TV Without Frontiers' Directive, broadcasters and regulators must also take account of the Directives on e-Commerce and on copyright related to satellite broadcasting and cable retransmission - is itself beginning to create uncertainty. Consolidation of Community law in the form of a Content Framework Package would provide an overarching framework for the audiovisual sector.

Principles and their application

9. The fundamental principle which lies behind the Directive is the promotion of the free movement of European television programmes within the single market. In addition, however, the Directive also embodies a commitment to promoting European audiovisual works, ensuring the protection of minors and public order, protecting consumers through clear identification and transparency in advertising, and the right of reply. All of these principles should continue to inform the Community's audiovisual policy. In addition, however, account must now be taken of a worrying trend towards concentration of media ownership, in both 'horizontal' (a number of broadcasters being owned or controlled by a single proprietor) and 'vertical' (single ownership across media) forms. Such a development potentially threatens diversity in the media, freedom of expression and free access to information. The Commission should regard the monitoring of media concentration as one of its central tasks in the audiovisual field.

10. The Commission has itself already proposed that regulation of content must be enforced as closely as possible to the activities being regulated. The need for flexibility, in order to respond effectively in a rapidly-changing sector, underlines that this is the right approach. Most of the Member States had tried and tested systems of co- and self-regulation in place before the Directive was adopted, and what might be called 'supervised self-regulation' is clearly the way forward. The practice which has evolved in implementing the Directive's provisions on protection of minors is a good example of the right balance between framework regulation at Community level to maintain the single market, national regulation and self-regulation by the industry.

11. Similarly, as far as advertising is concerned, a heavy-handed approach is to be avoided: regulation in the context of new technologies requires a less prescriptive and more flexible approach than that adopted in the current Directive. Intelligent broadcasters know that the association of their 'brand name' with high-quality and responsible broadcasting is an invaluable asset: they have no interest in irresponsible advertising. The Commission should recognise this and work with the grain of broadcasters' own interests. One of the most important jobs that the Commission can do is to encourage the spread of best practice. It should establish a working group of national regulators to share best practice in self- and co-regulation in advertising and consumer protection.

Cultural diversity and European awareness

12. By and large, the quotas set by the Directive for European works and for recent works by independent producers have been met. It is likely, however, that many of the growing number of specialist channels will be unable to meet these: the current qualification – that, 'where practicable', broadcasters should aim to meet these quotas – should be maintained. One area in which the Commission might take the initiative is in encouraging broadcasters to draw as fully as possible on the range of high-quality European work in its broadcasting aimed at children.

13. The role of the Media Plus programme in supporting the production of European works should be noted. A sense of European awareness might be further promoted by wider public access to channels such as ARTE and EURONEWS which have a pan-European

content. Similarly, the Commission could help promote awareness and understanding of the diversity of European culture by encouraging Europe-wide broadcasts of major European cultural events (such as the Austrian New Year Concert). The Commission should encourage broadcasters to make such channels and events as widely available as possible.

Access

14. To achieve full access to digital television, the Commission must continue to promote interoperability. National standards bodies must adapt their standards as the technologies develop.

15. Finally, the Commission should consider three technical issues: there may prove to be no easy solutions to these, but they should at least be addressed.

- At present, the absence of a harmonised right to access newsworthy events restricts the free movement of independent media (especially news agencies services): the Commission should seek to facilitate access to short extracts of events covered by exclusive rights.
- 2003 is the European Year of People with Disabilities. The Commission should also seek to promote sub-titling and sign language interpretation for those with hearing difficulties and audiovisual description for the visually impaired.

The rights trading market operates largely within national and linguistic borders, and that has given rise to a grey market. Europeans living away from their country of origin, who wish to continue watching broadcasts from their home country are resorting to piracy to do so. To achieve true frontier-free television, the Commission must tackle this problem. In the context of its review of the Directive on copyright related to satellite broadcasting and cable retransmission, the Commission should address the impossibility of lawfully accessing protected satellite TV channels originating from other Member States.

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Culture, Youth, Education, the Media and Sport

on ‘Television without Frontiers’ 2003/2033(INI)

Draftsman: Ioannis Koukiadis

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Ioannis Koukiadis draftsman at its meeting of 18 March 2003.

The committee considered the draft opinion at its meetings of 21 May and 10 June 2003.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Giuseppe Gargani (chairman), Bill Miller (vice-chairman, Paolo Bartolozzi, Ward Beysen, Bert Doorn, Janelly Fourtou, Evelyne Gebhardt, José María Gil-Robles Gil-Delgado, Malcolm Harbour, Piia-Noora Kauppi (for Anne-Marie Schaffner), Kurt Lechner, Klaus-Heiner Lehne, Manuel Medina Ortega, Angelika Niebler (for Rainer Wieland), Marcelino Oreja Arburúa (for Joachim Wuermeling), Marianne L.P. Thyssen, Diana Wallis, Matti Wuori (for Ulla Maija Aaltonen) and Stefano Zappalà.

CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Culture, Youth, Education, the Media and Sport, as the committee responsible, to incorporate the following points in its motion for a resolution:

- A. The successful implementation of Article 3a helps to prevent broadcasters under the jurisdiction of other Member States from committing infringements, on the basis of national provisions, and to prevent the exercise of exclusive rights in such a way that a substantial proportion of the public in another Member State is deprived of the possibility of following a designated event.

A more detailed picture should therefore be given both of the content of the events included in the list and of the number of viewers who can follow these events,

- B. Satellite broadcasting is the basic tool for ensuring that all European citizens have access to information society services. The availability of satellite programmes and satellite applications to the general public is directly linked with the development of satellite television. Therefore, the correct approach is being taken in proposing to incorporate the development of satellite television, interoperability requirements and the need for common open European interoperability specifications in the Commission's work programme for the directive on television without frontiers, with the final aim of developing them in the envisaged revision of the directive,

- C. The scope of the television directive should therefore be extended beyond the traditional television broadcasts hitherto included, regard being had to a graduated density of regulation, to new television services, in particular services supplied on individual demand and interactive offerings,

- D. With regard to the application of the rules on advertising, a positive development can be seen in the fact that the proceedings initiated against certain Member States led these states to take measures. However, it can be seen that new appeals have been submitted, often by individual consumers. The increased level of consumer interest, in conjunction with the new advertising techniques, make it necessary to coordinate the rules in the directive with all the commercial practices falling within the sphere of consumer protection policy,

- E. As emphasised in Parliament's resolution on media concentration, the principle of the free flow of information and pluralism in the media are fundamental rights linked to the democratic functioning of our societies. Therefore, in order to guarantee the right to free expression of all citizens in television services and, more generally, in information society services, the consistency of national arrangements and Community law on this subject needs to be re-examined,

1. Considers that a more detailed picture should be given of the extent to which measures taken comply with Community law, of the method for defining a 'significant part of the public' with regard to free access to certain events of major importance, and of the degree of convergence between Member States in defining such events;
2. Points to the outstanding issues arising from the discrepancies between fundamental legal concepts which are used as key concepts in the application of the directive, such as the concepts of a 'European work' and an 'independent producer', and problems caused by the complicated relations between television producers and channels;
3. Welcomes the Commission's proposal to submit to the Community legislator a package of measures to boost the consistency of Community policy in the audiovisual sector, and to include it in the long-term Lisbon objective that the EU should become the most competitive knowledge-based economy; considers that special attention should be paid to increasing the competitiveness of the audiovisual industry by way of financing programmes such as media plus, with the aim of increasing independence from the American market;
4. Calls for provisions which ensure that satellite programmes and satellite applications are available to the general public to be included in the amended directive, on the basis of the conclusions of the Commission's work programme on the development of satellite television, and calls for the consistency of national arrangements and Community law to be re-examined in order to guarantee pluralism in the media;
5. Calls on the Commission to publish as a set initiatives for Community policies which it considers to be connected to this sector, such as the Commission's strategy for the audiovisual sector, the commercial communications policy, consumer protection policy and the internal market strategy for the services sector;
6. Welcomes the Commission's inclusion in its work programme of a reference to the linkages between regulation by the authorities, co-regulation and self-regulation; urges that in subsequent versions of the 'Television without Frontiers' Directive, reference should be made to self-policing mechanisms as possible interments for implementing or enacting the provisions of the directive;
7. Calls on the Commission to publish a full picture of the self-regulatory measures taken to date, stating in which sectors these mainly apply, the success of these measures and their consistency with public interest objectives, as well as how far the interests of small bodies or new competitors have been taken into account; finally, with regard to consultations, believes that conditions ought to be laid down to guarantee the representativeness of the participating bodies and the effective expression of all divergent interests.

8. Welcomes the Commission's intention to investigate whether certain quantitative restrictions on advertising, taking user choice and control options into account, could be more flexibly structured; points out that as further developments are made in competition law in the context of the 'Television without Frontiers' Directive, in the interests of uniform protection for consumers, children and young persons in Europe, existing qualitative advertising rules and regulations should be retained in the context of that directive;
9. Calls urgently on the Commission to rework without delay Directive 93/83/EC, the Satellites and Cables directive, which is closely bound up with the 'Television without Frontiers' Directive; urges the Commission in that connection to establish framework conditions favourable to the development of the different audiovisual distribution channels and to take the interests of all concerned parties (in particular rights holders, television broadcasters and viewers) into account;
10. Calls on the Commission to ensure the necessary consistency between the Satellites and Cables directive (93/83/EEC)¹ and the 'Television without Frontiers' Directive (89/552/EEC)², and to investigate the extent to which amendments to those two directives by the copyright Directive (2001/29/EC)³ are necessary, so as to rule out any discrimination between satellite and cable services;

¹ OJ L 298, 17.10.1989, p. 23.

² OJ L 298, 17.10.1989, p. 23, as amended by Directive 97/63/EC, OJ L 202, 30.7.1997, p. 60.

³ OJ L 167, 22.6.2001, p. 10.