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REPORT

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'
(COM(2001) 9 – C5-0190/2001 – 2001/2086 (COS))

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

Rapporteur: Ruth Hieronymi

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PROCEDURAL PAGE

By letter of 16 January 2001, the Commission forwarded to Parliament the third report on the application of Directive 89/552/EEC "Television without Frontiers" (COM(2001) 9 – 2001/2086 (COS)).

At the sitting of 14 May 2001, the President of Parliament announced that she had referred the report to the Committee on Culture, Youth, Education, the Media and Sport as the committee responsible and the Committee on Legal Affairs and the Internal Market and the Committee on Industry, External Trade, Research and Energy for their opinions the Committee on the Environment, Public Health and Consumer Policy, (C5-0190/2001).

The Committee on Culture, Youth, Education, the Media and Sport had appointed Ruth Hieronymi rapporteur at its meeting of 6 March 2001

The committee considered the draft report at its meetings of 19 - 20 June and 10 - 11 July 2001 .

At the latter it adopted the motion for a resolution unanimously.

The following were present for the vote: Vasco Graça Moura, acting chairman; Ulpu Iivari, and Giorgio Ruffolo vice-chairmen; Ruth Hieronymi, rapporteur; Ole Andreasen, Pedro Aparicio Sánchez, Per-Arne Arvidsson (for Christine de Veyrac), Geneviève Fraisse, Cristina Gutiérrez Cortines (for Mónica Ridruejo), Christopher Heaton-Harris, Magdalene Hoff (for Lissy Gröner), Karin Junker (for Kathleen Van Brempt), Lucio Manisco, Maria Martens, Mario Mauro, Pietro-Paolo Mennea, Barbara O'Toole, Doris Pack, Roy Perry, Christa Prets, Martine Roure, Marieke Sanders-ten Holte, Phillip Whitehead, Theresa Zabell and Sabine Zissener.

The opinions of the Committee on Legal Affairs and the Internal Market and the Committee on the Environment, Public Health and Consumer Policy are attached; the Committee on Industry, External Trade, Research and Energy decided on 21 March 2001 not to deliver an opinion.

The report was tabled on 18 July 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the third report from 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' (COM(2001) 9 – C5-0190/2001 – 2001/2086(COS))

The European Parliament,

- having regard to the report from the Commission (COM(2001) 9 – C5-0190/2001),
 - 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 activities ('Television without Frontiers'),
 - having regard to the fourth communication from the Commission on the application of Articles 4 and 5 of Directive 89/552/EEC 'Television without Frontiers' (COM(2000) 442),
 - having regard to its resolution of 6 September 2000¹ on the Communication from the Commission 'Principles and guidelines for the Community's audiovisual policy in the digital age' (COM(1999) 657 – C5-0144/2000),
 - having regard to its resolution of 5 October 2000² on the Commission communication 'Study on Parental Control of Television Broadcasting' (COM(1999) 371 – C5-0324/1999),
 - having regard to the report of the Committee on Culture, Youth, Education, the Media and Sport and the opinions of the Committee on Environment, Public Health and Consumer Policy and the Committee on Legal Affairs and the Internal Market (A5-0286/2001),
- A. whereas the audiovisual sector is not only of fundamental importance for democracy, freedom of expression and cultural pluralism, but also, due to its impact on employment and to technological innovation in this field, represents a key sector from the point of view of the economy and jobs in the European Union and for the functioning of the single market,
- B. whereas European rules on the audiovisual sector take no account of worldwide broadcasting systems such as the Internet, nor do they provide for the possibility of the same or similar content being broadcast by different technological platforms,
- C. whereas the rules governing the audiovisual sector in the digital age must take account of synergies and interaction between conventional television and the new systems for picture and sound transmission, and whereas, therefore, a suitably open and flexible approach continues to be necessary, consistent with wide choice, and public availability,

¹ OJ C 135, 7.5.2001, p. 181

² OJ C 178, 22.6.2001, p. 279

- D. whereas digital television has a range of advantages - including better-quality television service and signals (digital signals), increased capacity for supply and choice of services and programmes as a result of its greater broadcasting capacity and greater choice and availability of new product and service packages - and is an extremely useful means of promoting the Internet in homes,
- E. whereas, despite the rapid pace at which the digital revolution is proceeding, it is likely that conventional television will continue for some time to be the most important audiovisual transmission medium for a large proportion of households in Europe,
- F. whereas the importance and impact of the audiovisual sector on the European cultural landscape is strongly affected by the ownership of media and its concentration within a few large corporations ;
- G. whereas, in the Commission's judgment, the 'Television without Frontiers' directive is generally being applied satisfactorily and the audiovisual sector as well as citizens have benefited from the adoption of the directive into the legal system of the European Union, the free movement of television broadcasting services within the Community having essentially been ensured,
- H. whereas the Television without Frontiers Directive is now obsolete, since it is intended to regulate only generalist, free-to-air television, for which purpose it was originally created; whereas, as a result, it makes no reference to interactivity or the existence of new kinds of television, as regards both means of distribution and forms of supply (satellite, cable, hertz waves, video streaming with IP technology; generalist, specialist, subscription, free-to-air, pay-per-view),
- I. whereas, in addition to technological developments, the televisual media are witnessing developments in the content of programmes such as 'reality' shows which are on occasion humiliating to their participants and which usually dominate the prime-time television schedules,
- J. whereas implementing the articles of the Directive which relate to advertising controls is highly problematic in some countries such as Greece, Spain and Italy and whereas, despite the opening of infringement procedures, the situation is getting worse in those countries, which are now failing to comply with other aspects of the legislation as well,
- K. whereas in connection with the advent of digital television, the Commission's fourth Communication to the Council on the implementation of Articles 4 and 5 of the Television without Frontiers Directive (COM(2000) 442 final) refers to difficulties encountered in monitoring compliance with quotas by channels in the Member States, particularly in the cases listed below:
- specialist channels (channels devoted to very specific content may fail to meet the quota for European works)
 - video-on-demand (where the same schedule is broadcast 20 times back-to-back)
 - new channels
 - music channels (difficulty in determining the origin of a music video)
 - film channels (which focus on high-budget, predominantly American films)
 - subsidiaries of companies from third countries
 - a range of programmes available on screen simultaneously,
- L. whereas application of the rules laid down in the 'Television without Frontiers' directive is the responsibility of the competent national authorities for the audiovisual sector, and

whereas the dialogue between Community bodies and national institutions provided for in the directive has proved extremely helpful and effective,

- M. whereas the dialogue with the Council of Europe and other competent international bodies in the field is also helping promote and extend exchanges and discussion on rules in the audiovisual sector at the Europe-wide level,
 - N. whereas the Communication from the Commission referred to, which was drawn up in order to comply with a formal requirement laid down in the directive, is confined to examining the way in which the 'Television without Frontiers' directive was applied in general during the period from 1997 to 2000, which is expressly described as a 'period of transition',
 - O. whereas the Commission proposes renewed consultation on, and a review of, the 'Television without Frontiers' directive, and intends to submit an appropriate proposal not later than by the end of 2002, with consultation and hearings in preparation for this to be held at the start of 2002,
 - P. whereas in the five years since the Directive was last amended, the climate in which the television industry operates has changed dramatically (new services using new technologies, an increase in the volume of business and advertising, a huge increase in the number of broadcasters, etc),
 - Q. whereas the Commission has already carried out intensive preliminary work ahead of such consultation, and in 2001 has commissioned three major studies on new advertising techniques, support for European works and technological and market developments in the audiovisual sector,
 - R. whereas these comprehensive studies carried out at an early stage form the basis for fully involving interested sections of the public, through a transparent, pertinent dialogue, in the preliminary work in connection with the review of the television directive,
 - S. whereas these studies will for the first time give a comprehensive overview of national provisions within the Community on the protection of minors with regard to the audiovisual sector,
1. Calls on the Commission, the Council and the Member States to take account of the following points:
 - a) Welcomes the Commission's generally careful assessment of the way in which the 'Television without Frontiers' directive, which constitutes the legal basis for the development of the European audiovisual sector, is currently being applied;
 - b) Regrets that the remit of this report as specified in the directive, did not allow the Commission to look beyond the mere application of the directive and also give an albeit interim assessment of the achievement of the underlying policy objectives.
 - c) Regrets the lack of analytical conclusions in some parts of the report, for example the common place description of vertical and horizontal integration in the audio-visual sector without a summarising assessment of the overall level of concentration and its implications.
 - d) Notes the information given by the Commission concerning the implementation of Article 3a on events of major importance for society, the implementation of Articles 4 and 5 of the 'Television without Frontiers' directive (Commission report COM(2000) 442), and the rules on advertising laid down in Articles 10 to 20 and the provisions on the protection of minors and parental control laid down in Articles 22 to 22b;

- e) Regrets that the Commission has only included scant and long-available information on the applicant countries' efforts to implement the acquis in the audio-visual field, and that it has not dwelt on the need for their stepping up of these efforts.
- f) Desires that all Member States and countries applying for accession step up their efforts as regards the process of adjustment in connection with applying the 'Television without Frontiers' directive, and at the same time prepare for the new operational phase of the directive due to take place after 2002;
- g) Supports the Commission in its intention to submit proposals concerning a formal review of the 'Television without Frontiers' directive ;but calls for the target date (end of 2002) to be brought forward as much as possible;
- h) Stresses the urgent need to amend the Television without Frontiers Directive in tandem with revision of the 1999 communications and the electronic commerce directive, in order to ensure a consistent approach towards all communications services, promote the competitiveness of the European audiovisual market in the new environment and create quality products and interactive services;
- i) Considers that, to that end, a structured, effective dialogue with the audiovisual sector, national institutions, broadcasters and users continues to be essential;
- j) Notes with concern the continuing imbalance between material produced in Europe and that imported from the United States for the European Market;
- k) Welcomes the wide preliminary work conducted by the Commission in connection with the public dialogue on the results of the application of the directive in all the Member States;
- l) Welcomes, in particular, the fact that the Commission has commissioned three major studies on new advertising techniques, promoting European works and technological and commercial developments in the audiovisual sector;
- m) Considers that, in conjunction with the Commission's planned review of the 'Television without Frontiers' directive, a comprehensive analysis should also be made of the pros and cons of Article 3a concerning Member States' right to take national measures to exploit TV rights for events of particular importance to the community;
- n) Awaits with interest the results of the studies, and welcomes the fact that the Commission is inviting discussion of these studies via a series of workshops as part of a transparent, informed, Community-wide dialogue;
- o) Hopes that the results of these studies and the informed dialogue in this area will not only be helpful for the review of the 'Television without Frontiers' directive, but will also serve as a model for introducing for the whole of the audiovisual sector a transparent procedure for analysing the effectiveness of national and Community legal bases;
- p) Considers premature, therefore, to anticipate the results of the debate on the future system for the audiovisual sector, but emphasises the importance of a large debate in the view of adopting a consistent, united position as regards balancing safeguarding European cultural diversity and the demands of the global market;
- q) Recalls the importance of conformity with the Directive as an element in the accession negotiations with the candidate countries, so that it shall have universal application in an enlarged European Union;
- r) Welcomes the continuing co-operation with the European Platform of Regulation Authorities

(EPRA) and the Council of Europe;

- s) Regards the Commission's approach to the protection of minors, emphasising the powers of the Member States, as the right one, and welcomes the presentation of the study undertaken at the request of the Commission on the impact of television advertising and teleshopping on minors in all Member States (99/139-102855);
 - t) Calls, on that basis, on the Member States to step up the dialogue and cooperation with regard to the protection of minors in order to find common solutions and, as far as possible, to make the current complex system of rules and practices in the European audiovisual field less heterogeneous whilst maintaining Member States' independence with regard to national restrictions on protection of children;
 - u) Considers it necessary, in anticipation of the review of the 'Television without Frontiers' directive, that the Member States and the Commission should uphold within the various international bodies the principle of the special cultural and democratic importance of the audiovisual sector, having regard to the growth in worldwide trade and technological progress; and should conduct a study to ascertain the extent and implications of vertical and horizontal integration of the media that already exists within Europe ;
 - v) Considers, therefore, that in reviewing the 'Television without Frontiers' directive, its scope should be broadened to cover the new audiovisual services;
 - w) Calls on the Commission to take into account in its review of the new developments in the sector, such as:
 - webcasting on the Internet
 - video streaming
 - decoders/Internet protocols (MHP)
 - electronic programme guides (EPG)
 - interfaces (API)
 - intellectual property (i.e. digital private copying and caching);
 - x) Considers that the Commission, together with the Member States, should facilitate the transition to digital technology both for audiovisual companies and individuals, through the installation of new terminals compatible with open digital technology;
 - y) Urges those Member States which have not yet done so to incorporate the amended 'Television without Frontiers' Directive into their national legislation;
 - z) Strongly recommends that the Commission proceed with its effective monitoring of compliance with the Directive so as to guarantee free transmission within the European Union, the broadcasting of European works and limits on advertising;
 - aa) Believes that the protection of minors and public order cannot justify the need for national measures restricting free transmission, provided that the Union's common principles and values are not undermined;
 - bb) Recommends that the Commission analyse in particular the alignment of legislation in the applicant countries as regards the legislation on television without frontiers.
2. Instructs its President to forward this resolution to the Commission, the Council and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

The increasing importance of the audiovisual industry, due also to the benefits of technological progress, is directly related to the great significance attributed by operators and users to the regulation of the sector. Digital technologies are extremely important in developing the growth potential of the audiovisual sector. In 1997, this sector employed more than 1 million people in Europe, and the industry's revenues are expected to increase by 70% by the year 2005. It is well known that 98% of households have a television and, in the new economic environment, the social impact of television is becoming increasingly significant, especially for children.

In fact, television is an industry unlike any other. It plays an essential role in modern democratic societies.

Any consideration of the audiovisual policy of the European Community must take into account the fact that regulation of the sector is increasingly carried out by bodies or institutions independent of governments.

The main goal of Directive 97/36/EC 'Television without frontiers' was, and still is, to establish a legal framework to promote the free circulation of audiovisual broadcasting services within the single market and to guarantee certain general interests, such as the promotion of cultural diversity, and the protection of consumers and minors.

As clearly indicated in the introduction of Communication COM(2001) 9, Article 26 of Directive 97/36/EC 'Television without frontiers' provides that, not later than 31 December 2000, the Commission must submit to the European Parliament, the Council and the Economic and Social Committee a report on the Directive.

The third report on the application of the above Directive attempts to describe the situation of a transition period (between July 1997 and December 2000).

In June 2002 a proposal for a revision of the Directive is expected and the Commission has already launched several studies in various fields covered by the Directive, whose aim is to provide significant feedback about the evolution of the audiovisual market.

Parliament welcomes the Commission's positive overall assessment of the TWF Directive and expresses the wish that all Member States as well the applicant states strengthen their commitment to ensure its application in this period of transition.

In this delicate phase, Parliament does not intend to intervene directly on the future evolution of the audiovisual regulation, because it considers it still premature to give an opinion on the revision of the TWF Directive. Nevertheless, it stresses the importance of maintaining the approach followed until now of a consistent position on the main aspects covered by the Directive, especially with regard to cultural diversity, pluralism and protection of minors. It calls on Member and applicant States to launch a broad debate on this matter and calls on the Commission to conduct a serious consultation and transparent dialogue with operators, users and regulatory bodies. Parliament is ready to contribute to this task, with the aim of preparing in good time and at the best level the revision of the TWF Directive, to enable it to continue successfully to be the fundamental legal instrument in the development of the European audiovisual sector.

9 July 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

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

on the Third Report from 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'

(COM(2001) 9 – C5-0190/2001 – 2001/2086 (COS))

Draftsman: Manuel Medina Ortega **PROCEDURE**

The Committee on Legal Affairs and the Internal Market appointed Manuel Medina Ortega draftsman at its meeting of 11 April 2001.

It considered the draft opinion at its meetings of 20 June and 9 July 2001.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Willi Rothley, acting chairman; Ward Beysen, vice-chairman; Manuel Medina Ortega, draftsman; Luis Berenguer Fuster (for Enrico Boselli), Maria Berger, Bert Doorn, Janelly Fourtou, Gerhard Hager, Malcolm Harbour, The Lord Inglewood, Ioannis Koukiadis (for Carlos Candal), Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Luís Marinho, Hans-Peter Mayer, Arlene McCarthy, Bill Miller, Hartmut Nassauer (for Paolo Bartolozzi), Gary Titley (for Jean-Maurice Dehousse), Joachim Wuermeling, Stefano Zappalà and Jürgen Zimmerling (for Antonio Tajani).

SHORT JUSTIFICATION

1. First of all, it is worrying to note that three Member States - Italy, Luxembourg and the Netherlands - have not yet transposed the Directive into their national legislation; the Commission rightly initiated proceedings against these Member States before the Court of Justice in 2000.
2. Furthermore, we should endorse the infringement proceedings instituted against Belgium for obliging channel VT4, which comes under British jurisdiction, to submit a request for authorisation to it. This move by Belgium is in breach of Article 2 of the Directive and of Article 10 of the EC Treaty; it also contradicts the judgment of the Court of Justice of 10 September 1996 in Case C-11/95. More information should be obtained on the Dutch authorities' decision to ban the distribution of RTL 4 and RTL 5 programmes to the Netherlands unless RTL/Veronica De Holland Media Groep SA obtained Dutch licences for these television channels.
3. It is apparent that the Member States are having a great deal of difficulty in implementing the Directive's provisions on 'events of major importance for society', in respect of which they may adopt national measures. By way of illustration, the 'substantial proportion of the public' in Denmark and Italy is 10%; in Germany it equates to a third of households, whilst in the United Kingdom it represents 5% of the public. The events set aside vary widely from one Member State to another, in line with the reasoning behind exceptions. However, such variety poses problems for transmissions televised across Member States, as has been seen in two cases in which the British authorities effectively deprived Danish viewers of access to events deemed to be of major importance to Danish society. That said, it is still rather premature to propose new rules in this area, since it could be maintained that, as matters stand, the Directive remains a work in progress. It is important, however, to ensure that governments provide the Commission with the lists of important events that they intend to enforce in their countries, so that the lists' conformity with Community legislation can be ascertained.
4. It is regrettable to note that the majority proportion of transmission time for European works, as laid down in Articles 4 and 5 of the Directive, has yet to be achieved in Portugal. Hence the need for the Commission to request that Portugal comply with Community legislation.
5. The Commission should be looking into the complaints lodged against Greece, Spain, Italy and Portugal for alleged failure to comply with the Directive's rules on advertising. Moreover, it is right that infringement proceedings have been initiated against Greece, Spain and Italy for failure to comply with the provisions on advertising, in the light of the case-law established by the Court of Justice in its judgment of 28 October 1998 (Case C-6/98, *Pro Sieben Media AG*), in which it enforced the gross time principle.
6. The protection of minors and public order laid down in Articles 22 to 22b does not give Member States carte blanche to block broadcasts from other Community countries. The judgment of the Court of First Instance of 13 December 2000 in the *Danish Satellite TV (DSTV) A/S Eurotica Rendez-Vous Television v. CEC* case is merely the first step towards establishing Community case-law that will have to strike a balance between the need for protection and the demands of a common audiovisual market. The protection issue cannot be left entirely to the receiving Member State's discretion alone, since account must be taken of

the common values shared throughout the Community that would only allow for the blocking of received programmes in what the Commission calls 'situations of incontestable gravity' in which, furthermore, there is no danger of bias in favour of local programmes.

7. The Commission must press ahead with the technical studies on parental control of the viewing by minors of harmful or immoral television broadcasting, in line with the Council Recommendation of 24 September 1998 (OJ L 270, 7.10.98, p. 48), the Action Plan on safer use of the Internet (Decision 276/1999/EC of the European Parliament and of the Council of 25 January 1999) and European Parliament resolution A5-0258/00 of 5 October 2000 on the results of a study on parental control of television broadcasting.
8. Enlargement of the Union can only encompass those countries that incorporate the *acquis communautaire*, including the rules of the Television without Frontiers Directive. It is vital that each and every one of the applicant countries work to bring their respective national legislation into line with Community legislation in the near future, and in any event prior to accession. They should also honour the Council of Europe Convention on Transfrontier Television of 5 May 1989, which came into force on 1 May 1993, and the Protocol of 9 September 1998 amending the Convention, which was opened for acceptance by the Parties to the Convention on 1 October 1998.

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:

Paragraph 1

Urges those Member States which have not yet done so to incorporate the amended 'Television without Frontiers' Directive into their national legislation.

Paragraph 2

Strongly recommends that the Commission proceed with its effective monitoring of compliance with the Directive so as to guarantee free transmission within the European Union, the broadcasting of European works and limits on advertising.

Paragraph 3

Considers that the variety of public proportion thresholds used in designating 'events of major importance for society' could be harmonised, without prejudice to the respect for the ability to make exceptions on grounds of national cultural diversity.

Paragraph 4

Believes that the protection of minors and public order cannot justify the need for national measures restricting free transmission, provided that the Union's common principles and values are not undermined.

Paragraph 5

Recommends that the Commission analyse in particular the alignment of legislation in the applicant countries as regards the legislation on television without frontiers.

10 July 2001

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY

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

on the third report from 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"

(COM(2001) 9 – C5-0190/2001 – 2001/2086(COS))

Draftsman: Phillip Whitehead

PROCEDURE

The Committee on the Environment, Public Health and Consumer Policy appointed Phillip Whitehead draftsman at its meeting of 10 April 2001.

It considered the draft opinion at its meetings of 25 June 2001 and 10 July 2001.

At the last meeting it adopted the following conclusions by 35 votes to 1, with 2 abstentions.

The following were present for the vote: Caroline F. Jackson, chairman; Guido Sacconi, vice-chairman; Phillip Whitehead, draftsman; Per-Arne Arvidsson, María del Pilar Ayuso González, Paolo Bartolozzi (for Cristina García-Orcóyen Tormo), Jean-Louis Bernié, Hans Blokland, David Robert Bowe, John Bowis, Philip Bushill-Matthews (for Peter Liese), Martin Callanan, Dorette Corbey, Avril Doyle, Anne Ferreira, Jim Fitzsimons, Marialiese Flemming, Karl-Heinz Florenz, Laura González Álvarez, Robert Goodwill, Françoise Grossetête, Cristina Gutiérrez Cortines, Christa Klaß, Eija-Riitta Anneli Korhola, Torben Lund, Minerva Melpomeni Malliori, Rosemarie Müller, Karl Erik Olsson, Encarnación Redondo Jiménez (for Jorge Moreira da Silva), Dagmar Roth-Behrendt, Giacomo Santini, Karin Scheele, Horst Schnellhardt, María Sornosa Martínez, Catherine Stihler, Nicole Thomas-Mauro, Roseline Vachetta and Rainer Wieland (for Emilia Franziska Müller).

SHORT JUSTIFICATION

There could be no better illustration of the pace of technological change, innovation and convergence than the audio-visual sector in Europe, in which television remains both a powerful production centre and a point of departure. The Television Without Frontiers directive was substantially amended in 1997 to take account of these changes, and to provide for a free market in television, which used regulation at national level to widen consumer choice, protect vulnerable groups, and enhance the independent production sector. The Directive has now been transposed in twelve member states with the remainder (Italy, Luxembourg and the Netherlands) on the point of doing so. Many of the concerns expressed in the 1997 debates have, in fact, intensified. The protection of minors and other vulnerable groups has become harder with the proliferation of digital channels, many of which take the viewer on-line as well. Huge concentrations of power, sometimes won on the screen and consolidated at the ballot box, have been permitted on the ground that we need a Europe-based industry with the critical mass to compete with the U.S. - based multinationals. Despite this, the sales pitch and market share of the latter has continued to grow.

The dramatic change in the audio-visual market in the last years of the Twentieth Century over shadowed the recent workshops held by the Education and Culture D.G under Article 25(a) of the Directive. Between 1995 and 1999 the revenues of European TV companies rose by an average of 46.3%, the fastest rises being in Portugal, Spain and the UK. But the increases varied sharply according to activity, tele-shopping, packaging and thematic channels growing very fast, public service broadcasting hardly at all. In the same period the great staple of national broadcaster - TV fiction production - grew only sluggishly in the five major producing states, Germany, Spain, France, the UK and Italy. Over the same period TV programmes sales by U.S. companies to the EU increased massively. Dependence on U.S. material, profitability recycled in tertiary markets, has also been a feature of difficulties for the candidate countries in accepting the *acquis* on Television Without Frontiers.

In some of them the pressure to restore state television with inadequate funding, the indebtedness of the new private broadcasters and the competition of trans-national satellite operations has been formidable.

Your Rapporteur must ask the question, what do the consumers of Europe's 600 plus channels with actual or potential national coverage want, at this time of rapid transition? They will certainly have welcomed the series of studies which are designed to make a route-map for this new electronic world. The existing means of ensuring a due proportion of European works needs re-assessment to make certain that its impact is both fair and effective. The technology, especially in regards to the winners and losers at analogue switch-off, and for wide interoperability of conditional access, must be assessed as if the needs and preferences of the audience really matter. The protection of minors from one sort of exploitation by intrusion and of many other overlapping minorities from exclusion, will be one test of the 2002 proposals. Your Rapporteur accepts that with the series of studies currently on-going under the Commission's auspices it would be premature to anticipate them. Instead he sets out, as amendments to the recitals of the Hieronymi Report, a series of suggestion in the consumer interest. All relate to the wider purposes which television broadcasting activities can serve, if we are to retain and re-shape the priorities of Directive 89/552/EEC in a transformed world.

CONCLUSIONS

The Committee on the Environment, Public Health and Consumer Policy 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:

Recital A

A. whereas the audiovisual sector is not only of fundamental importance for democracy, freedom of expression and cultural pluralism, but also, due to its impact on employment and to technological innovation in this field, represents a key sector from the point of view of the economy and jobs in the European Union and for the functioning of the single market.

Recital B

B. whereas the rules governing the audiovisual sector in the digital age must take account of synergies and interaction between conventional television and the new systems for picture and sound transmission, and whereas, therefore, a suitably open and flexible approach continues to be necessary, consistent with wide choice, and public availability.

Recital C

C. whereas, despite the rapid pace at which the digital revolution is proceeding, it is likely that conventional television will continue for some time to be the most important audiovisual transmission medium for a large proportion of households in Europe,

Recital D

D. whereas, in addition to technological developments, the televisual media are witnessing developments in the content of programmes such as 'reality' shows which are on occasion humiliating to their participants and which usually dominate the prime-time television schedules,

Recital E

E. whereas, in the Commission's judgement, the 'Television without Frontiers' directive is mainly being applied satisfactorily and the audiovisual sector as well as citizens have benefited from the adoption of the directive into the legal system of the European Union, the free movement of television broadcasting services within the Community having essentially been ensured,

Recital F

F. whereas application of the rules laid down in the 'Television without Frontiers' directive is the responsibility of the competent national authorities for the audiovisual sector, and whereas the dialogue between Community bodies and national institutions provided for in the directive has proved extremely helpful and constructive,

Recital G

G. whereas the dialogue with the Council of Europe and other competent international bodies in the field is also helping promote and extend exchanges and discussion on rules in the audiovisual sector at the Europe-wide level,

Recital H

H. whereas the Communication from the Commission referred to, which was drawn up in order to comply with a formal requirement laid down in the directive, is confined to examining the way in which the 'Television without Frontiers' directive was applied in general during the period from 1997 to 2000, which is expressly described as a 'period of transition',

Recital I

I. whereas the Commission proposes renewed consultation on, and a review of, the 'Television without Frontiers' directive, and intends to submit an appropriate proposal not later than by the end of 2002, with consultation and hearings in preparation for this to be held at the start of 2002,

Recital J

J. whereas the Commission has already carried out intensive preliminary work ahead of such consultation, and in 2001 has commissioned three major studies on new advertising techniques, support for European works and technological and market developments in the audiovisual sector,

Recital KK. whereas these comprehensive studies carried out at an early stage can form the basis for fully involving interested sections of the public, in the preliminary work in connection with the review of the television directive,

Recital L

L. whereas these studies will for the first time give a comprehensive overview of national provisions within the Community on the protection of minors with regard to the audiovisual sector,

Recital M

M. whereas the continuing phenomenon of mergers and horizontal integration needs to be studied with regard to its effects on the range of choice and delivery open to consumers and citizens,

Recital N

N. whereas implementing the articles of the Directive which relate to advertising controls is highly problematic in some countries and whereas, despite the opening of infringement procedures, the situation is getting worse in those countries, which are now failing to comply

with other aspects of the legislation as well,

Paragraph 1

1. Welcomes the Commission's careful assessment of the way in which the 'Television without Frontiers' directive, which constitutes the legal basis for the development of the European audiovisual sector, is currently being applied;

Paragraph 2

2. Notes the information given by the Commission concerning the implementation of Article 3a on events of major importance for society, the implementation of Articles 4 and 5 of the 'Television without Frontiers' directive (Commission report COM(2000) 442), and the rules on advertising laid down in Articles 10 to 20 and the provisions on the protection of minors and parental control laid down in Articles 22 to 22b;

Paragraph 3

3. Calls on the Commission, in connection with the new revision of the Directive, to consider how to combine the general rule of freedom of reception and non-restriction of broadcasting with the upholding of human rights in the case of the 'new content' referred to in recital D, with particular reference to the need to eliminate the sexist and racist content which is still to be found in the schedules of European television channels;

Paragraph 4

4. Desires that all Member States and countries applying for accession step up their efforts as regards the process of adjustment in connection with applying the 'Television without Frontiers' directive, and at the same time prepare for the new operational phase of the directive due to take place after 2002;

Paragraph 5

5. Recalls the importance of conformity with the Directive as an element in the accession negotiations with the candidate countries, so that it shall have universal application in an enlarged European Union;

Paragraph 6

6. Welcomes the continuing co-operation with the European Platform of Regulation Authorities (EPRA) and the Council of Europe;

Paragraph 7

7. Supports the Commission in its intention to submit proposals concerning a formal review of the 'Television without Frontiers' directive not later than by the end of 2002, as provided for in the directive and urged by the European Parliament;

Paragraph 8

8. Considers that, to that end, a structured, effective dialogue with the audiovisual sector, national institutions, broadcasters and users is essential;

Paragraph 9

9. Welcomes the wide preliminary work conducted by the Commission in connection with the public dialogue on the results of the application of the directive in all the Member States, in particular, the three major studies on new advertising techniques, promoting European works and technological and commercial developments in the audiovisual sector;

Paragraph 10

10. Awaits with interest the results of the studies, and welcomes the fact that the Commission is inviting discussion of these studies via a series of workshops as part of a transparent, informed, Community-wide dialogue;

Paragraph 11

11. Hopes that the results of these studies and the informed dialogue in this area will not only be helpful for the review of the 'Television without Frontiers' directive, but will also serve as a model for introducing for the whole of the audiovisual sector a transparent procedure for analysing the effectiveness of national and Community legal bases;

Paragraph 12

12. Notes with concern the continuing imbalance between material produced in Europe and that imported from the United States for the European Market;

Paragraph 13

13. Regards the Commission's approach to the protection of minors, emphasising the powers of the Member States, as the right one, and welcomes the presentation of the study undertaken at the request of the Commission on the impact of television advertising and tele-shopping on minors in all Member States (99/139-102855);

Paragraph 14

14. Calls, on that basis, on the Member States to step up the dialogue and cooperation with regard to the protection of minors in order to find common solutions and, as far as possible, to make the current complex system of rules and practices in the European audiovisual field less heterogeneous;

Paragraph 15

15. Welcomes the positive impact of the protection of national events of major significance, so that they can be shared by all in the society concerned and calls for the extension of the safeguard to other broadcasting outlets of particular significance to European audiences;

