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Committee on Women's Rights and Gender Equality

2005/0260(COD)

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OPINION

of the Committee on Women's Rights and Gender Equality

for the Committee on Culture and Education

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/ECC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (COM(2005)0646 – C6-0443/2005 – 2005/0260(COD))

Draftswoman: Lissy Gröner

PA_Legam

SHORT JUSTIFICATION

The Draftswoman welcomes the proposal of the Commission, in particular to bring linear and non-linear services within the same regulatory framework. However, some aspects of gender equality as well as protection of minors ought to be inserted in order to have a directive in line with the priorities of the Union. In a European context where more women enter the workforce but not enough measures are being implemented to reconcile working and family life. Also, a clear and strong protection of minors ought to be defined in the directive. On the same line, product placement should not be allowed since it is not proven that it enhances competitiveness while there is a clear risk to jeopardise the quality of content as well as the independence of authors, with possible negative consequences on consumers of audiovisual services as well as on the public.

AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Culture and Education, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission

Amendments by Parliament

Amendment 1 RECITAL 10

(10) Because of the introduction of a minimum set of harmonised obligations in Articles 3c to 3h and in the areas harmonised in this Directive Member States can no longer derogate from the country of origin principle with regard to protection of minors and fight against any incitement to hatred on grounds of race, sex, religion *or* nationality, and violation of human dignity concerning individual persons or protection of consumers as provided in Article 3(4) of Directive 2000/31/EC of the European Parliament and the Council.

(10) Because of the introduction of a minimum set of harmonised obligations in Articles 3c to 3h and in the areas harmonised in this Directive Member States can no longer derogate from the country of origin principle with regard to protection of minors and fight against any incitement to hatred on grounds of race, ***ethnic origin***, sex, religion, nationality, ***age, sexual orientation or disability*** and violation of human dignity concerning individual persons or protection of consumers as provided in Article 3(4) of Directive 2000/31/EC of the European Parliament and the Council.

Justification

There should be no discrimination because of ethnic origin, age, sexual orientation or disability

Amendment 2
RECITAL 13

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

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

Justification

The notion of "audiovisual media services" should apply only to services which are normally provided against remuneration; the fact that a website or videoblog contains information credits for, for example, the software used does not necessarily mean that it is to be qualified as an economic activity.

Amendment 3
RECITAL 17

(17) The notion of editorial responsibility is essential for defining the role of the media service provider and thereby for the definition of audiovisual media services. ***This Directive is without prejudice to the liability exemptions established in Directive 2000/31/EC***

(17) The notion of editorial responsibility is essential for defining the role of the media service provider and thereby for the definition of audiovisual media services. ***Editorial responsibility implies that the media service provider selects and organises the audiovisual content - either individual content items or a range of content - in a professional capacity. This excludes the sharing of user-generated content within limited virtual communities, as well as the activities of intermediary service providers which benefit from the liability exemptions established in Directive 2000/31/EC.***

Justification

It needs to be clarified further in a Recital that the notion of "editorial responsibility" presupposes that the media service provider edits the audiovisual content - either individual content items or the selection of content - in a professional manner. This also allows for a clearer distinction between "media service providers" and "intermediary service providers", which benefit from liability exemptions under Article 12-15 of the e-Commerce Directive.

Amendment 4 RECITAL 19 a (new)

(19a) It is therefore essential that the Member States prevent the emergence of dominant positions that would lead to a limitation of pluralism and restrictions on freedom of media information as well as of the information sector as a whole, for instance by taking measures to secure non-discriminatory access to audiovisual media service offerings in the public interest (e.g. through must-carry rules).

Justification

A central purpose of the Directive on audiovisual media services is to ensure access by citizens to a pluralistic media offering. This recital builds on an existing passage in the present Directive but states explicitly that infrastructural measures serving diversity, such as must-carry rules, also contribute to this objective.

Amendment 5 RECITAL 25

(25) In its Communication to the Council and the European Parliament on Better Regulation for Growth and Jobs in the European Union the Commission stressed that a careful analysis on the appropriate regulatory approach, in particular whether legislation is preferable for the relevant sector and problem, or whether alternatives such as co-regulation or self regulation should be considered. For co-regulation and self-regulation, the Interinstitutional Agreement on Better Law-making provides agreed definitions, criteria and procedures. Experience ***showed*** that ***co- and self-regulation instruments*** implemented in

(25) In its Communication to the Council and the European Parliament on Better Regulation for Growth and Jobs in the European Union the Commission stressed that a careful analysis on the appropriate regulatory approach, in particular whether legislation is preferable for the relevant sector and problem, or whether alternatives such as co-regulation or self regulation should be considered. For co-regulation and self-regulation, the Interinstitutional Agreement on Better Law-making provides agreed definitions, criteria and procedures. Experience ***shows*** that ***co-regulation systems*** implemented in accordance with ***the***

accordance with different legal traditions of Member States *can* play an important role in delivering a high level of *consumer* protection.

different legal traditions of *the* Member States *must* play an important role in delivering a high level of *public* protection. ***The public objectives can best be achieved in the framework of the new audiovisual services with the active support of the providers. The Member States can therefore provide for the use of transparent and generally recognised co-regulation systems, especially for non-linear services.***

Justification

Self-regulation can be an instrument for implementing European rules only as an integral part of regulation. It must therefore be integrated into the necessary regulatory regime, so that, in effect, only co-regulation can be considered here.

Amendment 6 RECITAL 32

(32) Measures taken to protect minors and human dignity ***must be carefully balanced with*** the fundamental right to freedom of expression as laid down in the Charter on Fundamental Rights of the European Union. The aim of these measures should thus be to ensure an adequate level of protection of minors especially with regard to non-linear services ***but not to ban adult content as such.***

(32) ***In the*** measures taken to protect minors and human dignity, ***an adequate balance must be established between on the one hand the respect of the fundamental rights of minors including young children, women and groups faced with discrimination and on the other hand,*** the fundamental right to freedom of expression as laid down in the Charter on Fundamental Rights of the European Union. The aim of these measures should thus be to ensure an adequate level of protection of ***the rights of*** minors, ***women and groups facing discrimination*** especially with regard to non-linear services.

Justification

Considering the important role played by the media in the way people form their opinions, and the de facto power it has on the public, it is essential that a balance should be found between the fundamental right to freedom of expression and respect for human rights as recognised by the EU and its Member States.

Amendment 7 RECITAL 40

(40) Commercial and technological developments give users increased choice and responsibility in their use of audiovisual media services. To remain proportionate with the goals of general interest, regulation must allow a certain degree of flexibility with regard to linear audiovisual media services: ***the separation principle should be limited to advertising and teleshopping, product placement should be allowed under certain circumstances and*** some quantitative restrictions should be abolished. ***However, where product placement is surreptitious, it should be prohibited. The separation principle should not prevent the use of new advertising techniques.***

(40) Commercial and technological developments give users increased choice and responsibility in their use of audiovisual media services. To remain proportionate with the goals of general interest, regulation must allow a certain degree of flexibility with regard to linear audiovisual media services: some quantitative restrictions should therefore be abolished, ***while the separation principle must remain inviolable in order to protect media services users, uphold editorial independence and safeguard artistic freedom. In this respect the prohibition of surreptitious advertising remains.***

Justification

Product placement is not compatible with the separation principle. The use of product placement represents a substantial interference in the audiovisual work and causes a confusion of editorial and promotional content. To maintain the credibility of the media it is necessary to continue to uphold the separation principle in a comprehensive manner.

Amendment 8
RECITAL 45

(45) Surreptitious advertising is a practice prohibited by this Directive because of *its* negative effect on consumers. ***The prohibition of surreptitious advertising does not cover legitimate product placement within the framework of this Directive.***

(45) Surreptitious advertising, ***product integration and thematic placement are practices*** prohibited by this Directive because of ***their*** negative effect on consumers.

Justification

Necessary addition to clarifying the prohibition of product integration and thematic placement, which are practices with very negative effects for the consumer.

Amendment 9
RECITAL 46

(46) Product placement is a reality in cinematographic works and in audiovisual works made for television, but Member

deleted

States regulate this practice differently. To ensure a level playing field, and thus enhance the competitiveness of the European media industry, it is necessary to adopt rules for product placement. The definition of product placement introduced here covers any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, normally in return for payment or for similar consideration. It is subject to the same qualitative rules and restrictions applying to advertising.

Justification

See amendment on recital 46 a (new)

Amendment 10
RECITAL 46 A (new)

(46 a) In the Member States different regulations and legal opinions exist with regard to the admissibility and use of production aids. It therefore appears that clarification of this point is needed in order to achieve fair cross-border competition. Production aid enables the prudent use of scarce resources without the disadvantage of violating the separation principle. The term production aid introduced here covers the acceptance free-of-charge or at a reduced price of production means or other inputs to the production of audiovisual media services that are needed on journalistic or artist grounds for the presentation of the real world. Production aids should be admissible if they do not involve any restrictions on journalistic or artistic freedom of expression. There must not be any payment or similar consideration in return for the production aid used. If the use of production aids requires for editorial or artistic reasons the reference to or presentation of goods, services, names, trade marks or activities of

a producer of commodities or provider of services, this shall occur without any special or undue emphasis.

Justification

The recital clarifies what is meant by admissible production aids. A production aid enables the prudent use of scarce financial resources. A production aid is presented in a work for editorial and not for promotional reasons, so its use does not lead to a confusion of editorial content and commercial forms of communication. This avoids the danger of undermining the separation principle or curtailing artistic or journalistic freedom.

Amendment 11

RECITAL 47

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

(47) **Regulatory authorities and regulatory bodies** should be independent from national governments as well as from audiovisual media service providers in order to be able to carry out their work impartially and transparently and to contribute to pluralism. Close cooperation among national regulatory authorities and the Commission is necessary to ensure the correct application of this Directive. ***The distinctive features of the national traditions of media regulation in terms of the organisation of regulatory authorities and regulatory bodies shall be respected.***

Justification

This wording takes account of the different national organisational forms of regulation and supervision in the Member States

Amendment 12

RECITAL 48 A (new)

(48a) Even though the providers of audiovisual content are obliged to ensure that facts and events presented in the media services they offer are correctly reported, there must still be clear obligations with respect to the right of reply or equivalent measures so as to ensure that anyone who feels that his legitimate interests have been infringed by an assertion of incorrect fact

via an audiovisual media service can effectively assert his rights.

Amendment 13
RECITAL 48 B (new)

(48b) The right of people with disabilities and elderly people to participate in social and cultural life in the community deriving from Articles 25 and 26 of the Charter of Fundamental Rights is indivisible from provision of accessible audiovisual media services. Accessibility of audiovisual media services includes but is not limited to sign language, subtitling, audio description, audio subtitling and easy-to-understand screen menus.

Justification

In the absence of a common understanding of what constitutes "accessibility", there is a danger of Member States interpreting the provisions of Article 3i in different ways, which may result in market fragmentation, unfair competition and legal uncertainty to the detriment of users with disabilities. Therefore, it is proposed to provide guidelines explaining the term "accessibility" in the context of audiovisual services.

Amendment 14
ARTICLE 1, POINT 2
Article 1, point (a) (Directive 89/552/EEC)

(a) ‘audiovisual media service’ means a service as defined by Articles 49 and 50 of the Treaty the principal purpose of which is the provision of moving images with or without sound, in order to inform, entertain or educate, to the **general** public by electronic communications networks within the meaning of Article 2(a) of Directive 2002/21/EC of the European Parliament and of the Council;

(a) ‘audiovisual media service’ means a service as defined by Articles 49 and 50 of the Treaty the principal purpose of which is the provision of moving images with or without sound, in order to inform, entertain or educate, **and which is offered by a media service provider** to the public by electronic communications networks within the meaning of Article 2(a) of Directive 2002/21/EC of the European Parliament and of the Council;
this definition does not include information society services, as defined in Article 1 of

Directive 98/48/EC;

Justification

Including a reference to the "media service provider" in this definition makes it clear that it is not just any provision of audiovisual content among members of the public which falls within the definition of "audiovisual media services", and thus within the scope of the Directive, but only those services for which a "media service provider" takes editorial responsibility (and not, for example, the sharing of user-generated content within limited virtual communities). The reference also ensures full coherence between the definitions of "audiovisual media service" and of "media service provider". However, what is meant in a "new media" environment by "editorial responsibility" needs to be further clarified in a recital. It is also proposed to delete the term "general" (before "public") in the English version ("grand" in the French version) so as to avoid the uncertainty which would be caused by changing the well-proven formulation in the current Directive, which simply uses the term "public".

Amendment 15

ARTICLE 1, POINT 2

Article 1, point (a a) (new) (Directive 89/552/CEE)

(aa) 'Audiovisual media services for children' means any media service as defined in Art. 1 (a) which is aimed at children or where children represent a significant proportion of the audience.

Justification

A reinforced protection of minors ought to be settled, since a growing number of women enter the workforce and leaving minors unattended in front of the television.

Amendment 16

ARTICLE 1 POINT 2

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

(h) 'surreptitious advertising' means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the **broadcaster** to serve advertising and might mislead the public as to its nature. Such representation is considered to be intentional in particular if it is done in return for

(h) 'surreptitious advertising' means the **direct or indirect** representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the **media service provider** to serve advertising and might mislead the public as to its nature. Such representation is considered to be intentional in particular if it

payment or for similar consideration;

is done in return for payment or for similar consideration;

Justification

Surreptitious advertising should also be prohibited in non-linear services in any form (direct or indirect).

Amendment 17

ARTICLE 1, POINT 2

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

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

Justification

The article defines this newly introduced term "production aid".

Amendment 18

ARTICLE 1, POINT 2

Article 1, point (k a) (new) (Directive 89/552/EEC)

(ka) 'production aid' entails the acceptance without payment or at a reduced price of means of production or other non-pecuniary inputs for the production of audiovisual media services without any payment or similar consideration in return.

Justification

The article defines this newly introduced term "production aid".

Amendment 19

ARTICLE 1, POINT 2

Article 1, point (k b) (new) (Directive 89/552/EEC)

(kb)'Co-regulation' means a form of regulation that is based on cooperation between public authorities and self-

regulation bodies.

Justification

It is important to give additional definitions

Amendment 20

ARTICLE 1, PARAGRAPH 4, POINT (B)

Article 2 a, paragraph 2, subparagraph 1, points a, b, c and d (Directive 89/552/EEC)

(b) ***In*** paragraph 2 “***Article 22a***” is replaced by “***Article 3e***”.

(b) Paragraph 2, ***subparagraph 1, points a, b, c and d*** are replaced by ***the following***:

"(a) a television broadcast coming from another Member State manifestly, seriously and gravely infringes Article 22(1) or (2) and/or Article 3e; or a non-linear media service coming from another Member State manifestly, seriously and gravely infringes Article 3d or Article 3e;

(b) during the previous 12 months, the media service provider has infringed the provision(s) referred to in (a) on at least two prior occasions;

(c) the Member State concerned has notified the media service provider and the Commission in writing of the alleged infringements and of the measures it intends to take should any such infringement occur again;

(d) consultations with the Member State from which the audiovisual media service comes and the Commission have not produced an amicable settlement within 15 days of the notification provided for in (c), and the alleged infringement persists."

(See wording of Article 2 a of Directive 89/552/EEC)

Justification

Care must be taken with the precise choice of words here, so as to reduce misunderstandings.

Amendment 21
ARTICLE 1, PARAGRAPH 4, POINT (B A) (new)
Article 2 a, paragraph 3 (Directive 89/552/EEC)

(ba) Paragraph 3 is replaced by the following:

"3. Paragraph 2 shall be without prejudice to the application of any procedure, remedy or sanction to the infringements in question in the Member State which has jurisdiction over the media service provider concerned."

Justification

Care must be taken with the precise choice of words here, so as to reduce misunderstandings.

Amendment 22
ARTICLE 1, POINT 5
Article 3 paragraph 3 a (new)

3a. Member States shall, by appropriate means, advance the development of media literacy amongst consumers.

Justification

Media literacy refers to the skills, knowledge and understanding of consumers to enable them to use media effectively. It is increasingly becoming a fundamental component of European and national communications policy agendas since it actively complements and underpins regulation. Important initiatives are being developed at European and national levels to advance people's media literacy, so that they can take full advantage of the benefits brought about by digital technologies. The audiovisual media services directive should recognise and provide direction to such efforts.

Amendment 23
ARTICLE 1, POINT 6
Article 3 b, paragraph 1 a (new)

1a The Member States shall take all necessary measures to ensure that broadcasters under their jurisdiction have access to events of great public interest for the purpose of short reporting.

Justification

The proposal by the European Commission on the right of short reporting does not guarantee access by citizens to information on events of importance to society. It is therefore necessary to establish a Community-wide right to short reporting. Moreover, such a provision would also serve the still valid objective of bringing the EC Directive into line with the respective Convention by the Council of Europe. A new paragraph 1 must therefore be inserted into Article 3b.

Amendment 24

ARTICLE 1, POINT 6

Article 3 b, paragraph 2 a (new) (Directive 89/552/EEC)

2a The broadcasters have the right of short reporting irrespective of the holder of exclusive rights and are thus entitled to independent access to events of major public interest.

Amendment 25

ARTICLE 1, POINT 6

Article 3 d (Directive 89/552/EEC)

Member States shall ***take appropriate measures*** to ensure that audiovisual media services under their jurisdiction are not made available in such a way that might seriously impair the physical, mental or moral development of minors.

Member States ***and the Commission*** shall ***encourage the drawing up of codes of conduct by trade, professional and consumer association or organisations*** to ensure audio visual media services under their jurisdiction are not made available in such a way that might seriously impair the physical, mental or moral development of minors, ***including young children, in particular through programmes containing scenes of pornography, meaning depictions to incite hatred based on sex, gratuitous violence, incitation to violence against women and girls or to intolerance.***

Justification

Protection of minors in the new media environment is best achieved through a multi-level partnership-based approach involving all stakeholders as provided for in Article 16 of the E-commerce Directive.

Amendment 26

ARTICLE 1, POINT 6

Article 3 d a (new) (Directive 89/552/EEC)

Article 3d a

Member States shall take appropriate measures to ensure that audiovisual media services under their jurisdiction are not made available in such a way that promotes or reinforces the portrayal of gender stereotypes.

Justification

Gender stereotypes portrayed in the media are a key factor in the continued existence of sex discrimination.

Amendment 27

ARTICLE 1, POINT 6

Article 3 e (Directive 89/552/CEE)

Member States shall ensure by appropriate means that audiovisual media services and audiovisual commercial communications provided by providers under their jurisdiction do not contain any incitement to hatred based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. ***deleted***

Justification

Amendment 28

ARTICLE 1, POINT 6

Article 3 e a (new) (Directive 89/552/EEC)

Article 3 ea

1. Member States must ensure through appropriate means that the audiovisual media services and audiovisual commercial communications delivered by providers within their jurisdictions:
(a) do not include any discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;

**(b) do not contain any incitation to hatred based on the above-mentioned grounds;
(c) do not portray persons with disabilities in a stigmatising manner that violates their human dignity and integrity.**

2. Member States shall take all appropriate measures, both general and specific, to ensure that the audiovisual media services within their jurisdictions gradually become accessible universally, and in particular to persons with disabilities and the elderly, and present a report to the Commission every two years.

Justification

In accordance with recital 30, the accessibility of audiovisual media services is an important factor in the correct functioning of the internal market. Persons who suffer from disabilities and/or are elderly represent a significant proportion of audiovisual service consumers. According to the Institute of Hearing Research, over 81 million Europeans have hearing difficulties; Europe is also home to over 30 million people with impaired vision. Research shows that a very large number of people who suffer from disabilities and/or are elderly watch television. That represents a market which must be covered. A requirement to provide accessible audiovisual media services would be bound to stimulate competition between service providers and fuel the internal market.

Amendment 29

ARTICLE 1 POINT 6

Article 3 g, point (c) (i) (Directive 89/552/EEC)

(i) include any discrimination on grounds of race, sex, or nationality;

(i) *undermine respect for human dignity or be in breach of fundamental rights as defined in the Charter of Fundamental Rights* or include any discrimination on grounds of race, sex, or *ethnic origin, religion or belief, disability, age, sexual orientation* or nationality.

Or. en

Justification

The list laid down in 3 g is incomplete and does not follow the order laid down in Article 13 of the Treaty

Amendment by Lissy Gröner

Amendment 30

ARTICLE 1, POINT 6

Article 3 g , point (c)(ii) (Directive 89/552/EEC)

(ii) be offensive to religious or political beliefs; ***deleted***

Or. en

Justification

See amendment on Article 3 g , point c, subparagraph (i)

Amendment 31

ARTICLE 1, POINT 6

Article 3 g, point (d a) (new) (Directive 89/552/EEC)

(da) Pornography including depictions to incite hatred based on sex shall be prohibited in all forms of audiovisual commercial communications and teleshopping;

Justification

A prohibition of pornography shall not mean that all erotic movies and depictions are no longer allowed, but that those depictions which are used to incite hatred based on sex are forbidden. Based on the revised European Convention on Transfrontier Television of the Council of Europe, in particular its Article 7, pornography must be added to the list of banned audiovisual commercial communications in point (d). Article 7 of the Convention states that: "All items of programme services, as concerns their presentation and content, shall respect the dignity of the human being and the fundamental rights of others. In particular, they shall not: a) be indecent and in particular contain pornography; b) give undue prominence to violence or be likely to incite to racial hatred"

Amendment 32

ARTICLE 1, POINT 6

Article 3 g, point (e) (Directive 89/552/EEC)

(e) Audiovisual commercial communications for alcoholic beverages must not be aimed at minors and may not encourage immoderate consumption of such beverages;

(e) Audiovisual commercial communications for alcoholic beverages should not be broadcast before 9 p.m.;

Justification

Reduce exposure of minors to alcohol advertising.

Alcohol is not an ordinary commodity. Apart from being a drug that can lead to both physical and psychological dependence, alcohol is a toxic substance and a cause of some 60 diseases and conditions. Alcohol is a key health determinant, responsible for 7,4 % of all ill-health and premature death in the EU, which makes it the third leading risk factor, after high blood pressure and tobacco. It causes nearly 195,000 deaths each year in the EU (over 25 % of male deaths in the age group 15-29 years are caused by alcohol. Further, alcohol-attributable disease, injury and violence cost the health, welfare, employment and criminal justice sectors across the EU some €125 billion a year. Equivalent to 1,3% GDP (i.e. €650 for each household). Regardless of whether alcohol advertisements are targeting young people, the reality is that young people are exposed to these advertisements. A growing body of research shows that exposure to and enjoyment of alcohol commercials cause minors to develop more positive expectancies and attitudes towards alcohol, which in turn influences the onset of drinking age, as well as their patterns and levels of alcohol consumption. In contrast with restrictions on the content of advertisements, a 9 p.m. watershed ban on alcohol advertising offers an easy and practical to implement and to monitor means to reducing the volume of alcohol advertising to which minors are exposed.

Amendment 33

ARTICLE 1, POINT 6

Article 3 g, point (f) (Directive 89/552/EEC)

(f) audiovisual commercial communications must not cause moral or physical detriment to minors. Therefore they shall not directly exhort minors to buy a product or service **by exploiting their inexperience or credulity**, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations

(f) Audiovisual commercial communications must not cause moral or physical detriment to minors. Therefore they shall not directly **or indirectly** encourage minors to buy a product or a service directly **or indirectly** encourage minors to persuade their parents or others to buy the products or services being advertised; exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations,

Amendment 34

ARTICLE 1, POINT 6

Article 3 g, point (f a) (new) (Directive 89/552/CCE)

(fa) audiovisual media services for children shall not contain or be interrupted by advertising, sponsorship or any marketing of foods and drinks high in fat, sugar and salt based on nutrition profiles, following the same principles as developed in the

Health Claims Regulation and of alcoholic beverages.

Justification

A reinforced protection of minors ought to be settled, since a growing number of women enter the workforce and leaving minors unattended in front of the television

Amendment 35

ARTICLE 1, POINT 6

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

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

1. Audiovisual media services that are sponsored shall meet the following requirements:

Justification

See justification to the amendment on recital 40

Amendment 36

ARTICLE 1, POINT 6

Article 3h, paragraph 1, point (c) (Directive 89/552/CEE)

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

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

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

(c) viewers must be clearly informed of the existence of a sponsorship agreement.

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

Programmes ***produced in third countries*** containing product placement must be appropriately identified at the start of the programme in order to avoid any confusion on the part of the viewer.

Justification

See justification to the amendment on recital 40

Amendment 37
ARTICLE 1, POINT 6
Article 3 h, paragraph 2 (Directive 89/552/EEC)

(2) Audiovisual media services must not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.
Further, audiovisual media services must not contain placement of tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.

(2) Audiovisual media ***programmes and*** services must not be sponsored by undertakings whose principal activity is ***either*** the manufacture or sale of cigarettes and other tobacco products ***or the manufacture or sale of alcohol.***

Justification

Sponsorship is inadmissible for any activities associated with tobacco or alcohol.

Amendment 38
ARTICLE 1, POINT 6
Article 3h, paragraph 4 (Directive 89/552/CEE)

4. News and current affairs shall not be sponsored ***and not contain product placement. Audiovisual media services for children and documentaries may not contain product placement.***”

4. News and current affairs shall not be sponsored.”

Justification

See justification to the amendment on recital 40

Amendment 39
ARTICLE 1, POINT 6
Article 3 ha (new) (Directive 89/552/EEC)

Article 3ha

The utilisation of production aid for audiovisual media services shall only be admissible under the following conditions:

a) it must not entail any restriction on journalistic or artistic freedom of expression,

b) if in this connection the mentioning or showing of commodities, services, names, trade marks or activities of a producer of commodities or provider of services is required for editorial reasons, this must be done without any special or undue emphasis,

c) no payment or similar consideration shall be given in return for the presentation.

d) the viewer shall be informed of the use of any such production aids at the beginning and at the end of the programme. The precise rules, including a de minimis limitation, shall be set by the Member States.

e) Paid product placement, theme placement and product/script Integration shall be prohibit.

f) Third country programmes that include product placement must be clearly identified and labelled as such.].

The exact arrangements, including the fine details, shall be determined by the Member States.

Justification

The article defines the criteria for the admissibility of production aid. It ensures that the viewers are informed about the use of such production aids, but – in accordance with the subsidiarity principle – leaves the Member States to set the precise rules on what should be indicated. There is also scope for the setting of de minimis limits to discourage the excessive emphasis of production aids that are of minor importance to the respective work.

Amendment 40

ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/CEE)

2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and

2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and

ancillary products directly derived from those programmes, sponsorship announcements **and product placement.**”

ancillary products directly derived from those programmes **and** sponsorship announcements.”

Justification

See justification to the amendment on recital 40

Amendment 41

ARTICLE 1, POINT 20

Article 23 b, paragraph 1 (Directive 89/552/EEC)

1. Member States shall guarantee the independence of national regulatory authorities and ensure that they exercise their powers impartially and transparently.

1. Member States shall **take appropriate measures to establish national regulatory authorities to** guarantee the independence of national regulatory authorities **to ensure that woman and men are represented equally in them** and **to** ensure that they exercise their powers impartially and transparently.

Justification

Article 23 must be amended to comply with the Union’s commitments to equal access for women and men in all areas of life, considering the crucial role played by the media in the way people’s ideas are formed, and in order to ensure that women and men are represented equally in decision-making bodies. Furthermore, it is essential that the consumer should be well informed and able to avail of redress procedures at national level, in order to vindicate their rights.

Amendment 42

ARTICLE 1, POINT 20

Article 23 b, paragraph 2 a (new) (Directive 89/552/EEC)

2 a. Member States shall ensure that both linear and non-linear services are subject to control either by existing national regulatory authorities or by newly established national authorities; that pluralism is respected; that consumers are informed about procedures for redress and for bringing a case with the national regulatory authority or the relevant authority, in order to vindicate rights infringed as a result of non-compliance

with the provisions of this Directive.

Justification

Article 23 must be amended to comply with the Union's commitments to equal access for women and men in all areas of life, considering the crucial role played by the media in the way people's ideas are formed, and in order to ensure that women and men are represented equally in decision-making bodies. Furthermore, it is essential that the consumer should be well informed and able to avail of redress procedures at national level, in order to vindicate their rights.

PROCEDURE

Title	Proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/ECC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities
References	COM(2005)0646 – C6-0443/2005 – 2005/0260(COD)
Committee responsible	CULT
Opinion by Date announced in plenary	FEMM 2.2.2006
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Lissy Gröner 21.3.2006
Previous drafts(wo)man	
Discussed in committee	11.7.2006 12.9.2006 .5.10.2006
Date adopted	5.10.2006
Result of final vote	+: 12 -: 3 0: 6
Members present for the final vote	Edit Bauer, Hiltrud Breyer, Edite Estrela, Věra Flasarová, Lissy Gröner, Livia Járóka, Rodi Kratsa-Tsagaropoulou, Urszula Krupa, Siiri Oviir, Marie Panayotopoulos-Cassiotou, Marie-Line Reynaud, Teresa Riera Madurell, Lydia Schenardi
Substitute(s) present for the final vote	Iratxe García Pérez, Lidia Joanna Geringer de Oedenberg, Ana Maria Gomes, Karin Resetarits, Feleknas Uca
Substitute(s) under Rule 178(2) present for the final vote	Manolis Mavrommatis, Karin Scheele, Margrietus van den Berg
Comments (available in one language only)	...