



2022/2038(INI)

2.3.2023

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Culture and Education

on the implementation of the Audiovisual Media Services Directive
(2022/2038(INI))

Rapporteur for opinion: Marc Angel

PA_NonLeg

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Culture and Education, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas the creation of an area without internal borders for audiovisual media services that also affords a high level of protection to objectives of general interest could not be sufficiently achieved by the Member States alone and could therefore be better achieved at Union level;
 - B. whereas the latest revision of the Audiovisual Media Services Directive (AVMSD)¹, adopted on 28 November 2018, provided a framework for strengthening the country of origin principle and improving the protection of consumers, in particular minors and persons with disabilities, in the online world;
 - C. whereas under the revised AVMSD, the European Regulators Group for Audiovisual Media Services brings together representatives of national independent regulatory bodies in the field of audiovisual services to advise the Commission on the consistent implementation of the AVMSD and to exchange best practices;
 - D. whereas the significantly delayed transposition of the AVMSD by Member States undermines its effectiveness;
 - E. whereas it is necessary to ensure consistency between the AVMSD and the Geo-blocking Regulation²; whereas the Commission report on the first short-term review of the Geo-blocking Regulation³ stated that on audiovisual content, in particular, the Commission would engage in a dialogue with stakeholders with a view to fostering the circulation of quality content across the EU; whereas this dialogue is included as Action 7 in the Media and Audiovisual Action Plan⁴;
1. Underlines the importance of the proper implementation of the AVMSD, which aims to establish a safer and fairer framework for audiovisual services and to ensure a high level of consumer protection; regrets that not all Member States have implemented the AVMSD, thus increasing fragmentation in the single market, creating unjustified barriers and harming media pluralism in Europe; encourages all Member States to implement it urgently;
 2. Is concerned that because of the delay in transposition, a full-scale ex-post evaluation is

¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, OJ L 95, 15.4.2010, p. 1.

² Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC, OJ L 60I, 2.3.2018, p. 1.

³ COM(2020)0766.

⁴ COM(2020)0784.

not entirely possible at present;

3. Highlights the importance of the strengthened country of origin principle, which helps providers to abide by the rules and facilitates the cross-border provision of services by providing legal certainty and a better understanding of the rules providers must follow, while at the same time strengthening consumer protection in the single market; underlines that the country of origin principle is essential for achieving a single market in audiovisual media services and remains relevant for incentivising investments in innovative and creative productions; notes that derogations from the country of origin principle could lead to the fragmentation of the single market and generate administrative burdens for cross-border services;
4. Stresses that under Article 7 of the AVMSD, media service providers must ensure, without undue delay, that audiovisual services are continuously and progressively made more accessible to persons with disabilities, in line with the accessibility requirements set out in Directive (EU) 2019/882; regrets, however, that substantial differences exist between Member States with regard to the fulfilment of these obligations; is concerned that, as a result of delays and differences in transposition, Member States are not properly addressing the needs of persons with disabilities and therefore recalls that it is vital that each Member State designate an easily accessible and publicly available online point of contact without undue delay;
5. Recalls that media service providers should report regularly to the national regulatory authorities or bodies on the implementation of the measures related to accessibility; calls on the Commission to promote the exchange of best practices between Member States and between media service providers; stresses the need for coordination in the implementation of the AVMSD and Directive (EU) 2019/882 in order to achieve the best possible result for persons with disabilities;
6. Recalls the AVMSD's key provisions to protect minors, in particular the prohibition on processing minors' data for commercial communications and the provisions on product placement and on strengthening the control and regulation of content likely to harm the physical, mental or moral development of minors, including content relating to unhealthy foods and beverages; urges the Commission to secure the strict implementation and proper enforcement of these rules; notes that self-regulatory codes can play an important role in this regard and underlines that they should take into account the fast evolution of marketing techniques;
7. Underlines the need to ensure the proper enforcement of existing transparency rules for advertisements, including those presented by influencers;
8. Highlights the importance of a well functioning internal media market with a high level of consumer protection; underlines that the proposed European media freedom act aims to further enhance cooperation between the national regulators by establishing a European media board; stresses that independence and adequate financial and human resources must be guaranteed in order to fulfil these new responsibilities and to effectively strengthen consumer rights and consumer choice; insists on the importance of avoiding overlaps between the two instruments in order to preserve their effectiveness;

9. Stresses the need for clarification on how the implementation of the AVMSD complements that of other relevant EU legal acts, such as the recently adopted Digital Services Act⁵, noting that the AVMSD should be considered *lex specialis* in relation to the generally applicable framework set out in the Digital Services Act in order to ensure a high level of protection for consumers and a consistent and coordinated legislative framework across Member States;
10. Underlines the need to ensure full compliance with principles such as non-discrimination, consumer protection, technological and net neutrality, trustworthiness and inclusiveness and calls for users' rights to be protected more robustly; notes that the different levels of consumer protection with regard to commercial communications result in the absence of a level playing field for audiovisual media services and video-sharing platforms, which is detrimental to consumer protection, and calls on the Commission to address this issue; recalls that the Treaty on the Functioning of the European Union and the AVMSD prohibit discriminatory restrictions on the free movement of media services; stresses the need to ensure that audiovisual media content can be transmitted at the speed and quality intended by its creators and distributors; opposes all attempts to limit the application of the principle of net neutrality in this regard: is concerned about the implementation of the AVMSD in certain Member States, in particular in Hungary, where a national law bans or restricts the display of LGBTI communities and issues in programming and advertising content, constituting a clear breach of the EU's values, principles and laws; recalls that national laws that violate fundamental rights under the EU Charter of Fundamental Rights, the Treaty on European Union, the Treaty on the Functioning of the European Union and EU internal market legislation, including the AVMSD, not only have negative effects on consumers but also harm the right to conduct business; notes that the Commission launched infringement proceedings against Hungary in this regard and strongly encourages it to follow up thoroughly in that Member State and also ensure the proper enforcement of the AVMSD across the Union;
11. Highlights the need to ensure the proper implementation of the new provisions protecting the integrity of the broadcasting signal and encourages Member States to adopt comprehensive and effective rules to protect the integrity of the broadcasting signal on all relevant online platforms and user interfaces used to access audiovisual media services;
12. Notes the provision recognising the ability of Member States to ensure the prominence of audiovisual media services of general interest; highlights the need to guarantee the proper implementation of this provision; points out that only some Member States have taken measures to ensure the prominence of audiovisual media services of general interest and calls on the Commission to present guidelines in relation to Article 7a;
13. Considers that the free movement of services should be ensured together with the protection of cultural diversity; welcomes the smooth and effective implementation of the requirement for 30 % of works in video-on-demand catalogues to be European, which has had a positive impact on cultural diversity by increasing EU audiences'

⁵ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), OJ L 277, 27.10.2022, p. 1.

exposure to European works and by offering more opportunities for European creations to reach viewers across the EU; underlines, at the same time, that quotas diverging from the AVMSD as regards the share of European works, sub-quotas for national works, additional investment requirements and complex financial contribution obligations create significant compliance costs for market operators and may undermine the integrity of the single market; further underlines that streaming is an established form of accessing media in the internal market and therefore calls on the Commission and the Member States to further elaborate on the possible application of the AVMSD rules on European works to music streaming services, at least with regard to promotion, prominence, and discoverability;

14. Notes the opportunities offered by major non-EU-based video-on-demand services to European audiovisual creators and producers, but also points to the potential challenges, given that the definition of European works includes works originating in both European Union Member States and states that are parties to the European Convention on Transfrontier Television, such as the United Kingdom; calls on the Commission to look into the impact on the entire value chain in the European cultural and creative sector and to investigate how these platforms comply with the Union's internal market rules; stresses the need to support European SMEs, which are necessary for the proper functioning of the audiovisual sector and for a diverse offer, which enhances consumer choice;
15. Recalls that cross-border access to goods and services online should be without any barriers or discrimination for European consumers, regardless of their location, residence or nationality; notes, in this regard, the importance of ensuring consistency between the AVMSD and the Geo-blocking Regulation, considering that the scope of the latter does not cover audiovisual content, notes that with the Portability Regulation⁶, progress has been made to the benefit of consumers; recalls that certain obstacles still persist, particularly in the provision of audiovisual services, and calls on the Commission to remove unjustified, disproportionate and discriminatory barriers; reminds the Commission to present to Parliament the outcome of its stakeholder dialogue on possibly extending the scope of the Geo-blocking Regulation;
16. Stresses that the scope of the AVMSD has been extended to impose certain obligations on video-sharing platform providers under Article 28b, such as the requirement to take appropriate measures to protect minors from harmful content and all users from content containing incitement to violence or hatred; highlights the need to ensure the proper implementation of these provisions;
17. Recalls that according to the Commission communication entitled 'Guidelines on the practical application of the essential functionality criterion of the definition of a "video-sharing platform service" under the Audiovisual Media Services Directive', published in 2020, video-sharing platform services provide audiovisual content that is increasingly accessed by the general public, and this is also true of social media services, which have become an important medium for sharing information; further recalls that according to these guidelines, certain social media services could fall within the scope of application

⁶ Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market, OJ L 168, 30.6.2017, p. 1.

of the new rules on video-sharing platforms if they meet certain criteria.

**ANNEX: LIST OF ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR FOR THE OPINION HAS RECEIVED INPUT**

The following list is drawn up on a purely voluntary basis under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft opinion:

Entity and/or person
Motion Picture Association EMEA
Association of Commercial Television and Video on Demand Services in Europe
EBU-UER (European Broadcasting Union)
EUROKINEMA, Association de producteurs de cinéma et de télévision
Federation of European Screen Directors
Netflix International B.V.
Society of Audiovisual Authors
European Film Agency Directors
European Advertising Standards Alliance
GESAC (European Grouping of Societies of Authors and Composers)

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	2.3.2023
Result of final vote	+: 33 -: 3 0: 1
Members present for the final vote	Alex Agius Saliba, Andrus Ansip, Adam Bielan, Anna Cavazzini, Deirdre Clune, David Cormand, Maria Grapini, Svenja Hahn, Krzysztof Hetman, Eugen Jurzyca, Arba Kokalari, Andrey Kovatchev, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Beata Mazurek, Leszek Miller, Anne-Sophie Pelletier, René Repasi, Andreas Schwab, Tomislav Sokol, Róza Thun und Hohenstein, Marion Walsmann, Marco Zullo
Substitutes present for the final vote	Clara Aguilera, Marc Angel, Vlad-Marius Botoș, Jordi Cañas, Christian Doleschal, Malte Gallée, Ivars Ijabs, Katrin Langensiepen, Tsvetelina Penkova, Romana Tomc, Kosma Złotowski
Substitutes under Rule 209(7) present for the final vote	Patrick Breyer, Ljudmila Novak, Javier Zarzalejos

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

33	+
PPE	Deirdre Clune, Christian Doleschal, Krzysztof Hetman, Arba Kokalari, Andrey Kovatchev, Ljudmila Novak, Andreas Schwab, Tomislav Sokol, Romana Tomc, Marion Walsmann, Javier Zarzalejos
Renew	Andrus Ansip, Vlad-Marius Botoș, Jordi Cañas, Svenja Hahn, Ivars Ijabs, Róza Thun und Hohenstein, Marco Zullo
S&D	Alex Agius Saliba, Clara Aguilera, Marc Angel, Maria Grapini, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Leszek Miller, Tsvetelina Penkova, René Repasi
The Left	Anne-Sophie Pelletier
Verts/ALE	Patrick Breyer, Anna Cavazzini, David Cormand, Malte Gallée, Katrin Langensiepen

3	-
ECR	Adam Bielan, Beata Mazurek, Kosma Złotowski

1	0
ECR	Eugen Jurzyca

Key to symbols:

+ : in favour

- : against

0 : abstention