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Connected TV

European Parliament resolution of 4 July 2013 on connected TV (2012/2300(INI))

The European Parliament,

- having regard to Article 167 of the Treaty on the Functioning of the European Union,
- having regard to Article 10(1) of the European Convention on Human Rights,
- having regard to Articles 11 and 8 of the Charter of Fundamental Rights of the European Union,
- having regard to the Protocol on the system of public broadcasting in the Member States annexed to the Amsterdam Treaty amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts,
- having regard to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) on 20 October 2005,
- having regard to 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 (Audiovisual Media Services Directive)¹,
- having regard to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)² amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009³,
- having regard to Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)⁴ amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009⁵,
- having regard to Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)⁶ amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009,

¹ OJ L 95, 15.4.2010, p. 1.

² OJ L 108, 24.4.2002, p. 33.

³ OJ L 337, 18.12.2009, p. 37.

⁴ OJ L 108, 24.4.2002, p. 51.

⁵ OJ L 337, 18.12.2009, p. 11.

⁶ OJ L 108, 24.4.2002, p. 7.

- having regard to Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)¹ amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009,
 - having regard to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations²,
 - having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce)³,
 - having regard to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector⁴, as last amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009,
 - having regard to the Communication from the Commission on the application of State aid rules to public service broadcasting⁵,
 - having regard to Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity⁶,
 - having regard to its resolution of 15 June 2010 on the Internet of Things⁷,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Culture and Education (A7-0212/2013),
- A. whereas TV sets were originally developed to receive linear broadcast signals; whereas in the digital environment, too, audiovisual content still meets with very great interest on the part of the public, owing to its suggestive power, by comparison with other electronic media services; and whereas consequently its outstanding importance for individual and public opinion-forming persists;
- B. whereas audiovisual media services, which are as much cultural services as they are economic services, are of outstanding importance for society and democracy as vectors of identities, values and opinions, and therefore still require specific regulation in an increasingly convergent world;

¹ OJ L 108, 24.4.2002, p. 21.

² OJ L 204, 21.7.1998, p. 37

³ OJ L 178, 17.7.2000, p. 1.

⁴ OJ L 201, 31.7.2002, p. 37.

⁵ OJ C 257, 27.10.2009, p. 1.

⁶ OJ L 270, 7.10.1998, p. 48.

⁷ OJ C 236 E, 12.8.2011, p. 24.

- C. whereas the long-awaited technical media convergence has now become a reality, particularly for broadcasting and the internet, and European media, culture and network policy must adapt the regulatory framework to the new conditions and ensure that a uniform level of regulation can be established and enforced, also with a view to new entrants to the market from the European Union and third countries;
- D. whereas the internet has developed rapidly over the past 25 years, and whereas the smart devices which have emerged are changing habits and the way of watching television;
- E. whereas, while the take-up of internet-connected devices is increasing, traditional services nevertheless remain mainstream-popular;
- F. whereas linear and non-linear audiovisual services and numerous other communications services can already be used on one and the same screen, combined seamlessly and consumed simultaneously;
- G. whereas the particular social significance of linear television and media services means that an independent regulatory framework for the media will still be necessary in the future, since this is the only way of taking proper account of this important role and of ensuring diversity of opinion and the media in the Member States;
- H. whereas the advent of connected TV has shaken up the traditional value chain and makes it necessary to draw up a new strategy;
- I. whereas the advancement of technological developments leads inevitably to what is to some extent only an apparent increase in user autonomy, and there is therefore a growing need to ensure protection of exclusive rights and integrity of content;
- J. whereas opportunities are increasing for dissemination of (interactive) on-line services benefiting from the range of television offerings, and 100% broadband coverage is crucial for increasing consumer interest in hybrid receiving systems;
- K. whereas in the light of growing media convergence, the concept of ‘connected TV’ is being interpreted in a dynamic, technologically neutral and broad way to cover all devices, including mobile devices, which enable access to linear and non-linear media content, over-the-top services and other applications on one and the same device or screen, thereby bringing together the world of broadcasting and the world of the internet;
- L. whereas competition in the convergent media world is increasingly centring less on transmission capacities and more on the attention of users; whereas, as the number of services on offer rises, it becomes more and more difficult to reach users; and whereas access to and the rapid findability, listing and recommendation of services will most likely determine their success;
- M. whereas the current provisions of 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 (Audiovisual Media Services Directive) are based on the principle of technological neutrality; whereas those provisions do not yet reflect ongoing technological convergence; and whereas in particular graduated regulation, which differentiates between television programmes (including webcasting and live streaming)

and audiovisual media services on demand, will become less important in its existing form, although differently regulated information and communications services are available on one and the same device, including services which do not fall within the scope of the Audiovisual Media Services Directive but of the e-Commerce Directive or, in the case of non-European services, are not covered by any EU media regulations, which both may result in unequal competitive conditions and unacceptable discrepancies in the protection of users and raises fresh questions - regardless of media type - of content access, dissemination method and findability;

- N. whereas these new service providers will compete head-on with the traditional players in the sector, both by acquiring exclusive content, including on the European market, and by offering new services;
- O. whereas the regulatory objectives of the Audiovisual Media Services Directive – particularly those of ensuring and promoting diversity of opinion and of the media, protecting human dignity and protecting children, encouraging media service providers to guarantee accessibility to the visually and hearing impaired, and safeguarding fair competition, as well as quality- and content-based regulation of advertising – retain their importance to society and their regulatory justification as a matter of principle, but whereas at the same time the limits of the effectiveness and enforceability of these protective provisions are becoming increasingly apparent because of the methods of use made possible by hybrid receiving systems;
- P. whereas high-quality connected TV services can only be provided if telecommunications operators offer sufficiently high-speed links between the broadcasting servers and subscribers;
- Q. whereas the range of possible uses offered by hybrid devices calls into question core principles of the Audiovisual Media Services Directive, such as the mandatory separation of advertising and programmes, and rules on the insertion of advertising;
- R. whereas the mere chance fact of the existence of numerous services does not automatically result in the aforementioned regulatory objectives being attained, and it is therefore appropriate to evaluate whether there will remain a need for a specific regulatory framework in order to realise the objectives and whether that framework could preclude possible adverse developments from the outset;
- S. whereas as connected TV becomes gradually more established, conventional TV and the internet may come to coalesce, just as mobile telephony and the internet melded together a few years ago;
- T. whereas any means of adapting the market to favour creation and innovation in Europe should be encouraged;
- U. whereas the development of hybrid systems combining TV and the internet will allow users to browse indiscriminately between TV channels and the internet, including websites illegally offering audiovisual content;
- V. whereas net neutrality is proven to be insufficiently safeguarded by transparency and competition;

W. whereas the country-of-broadcast principle in the original Television Without Frontiers Directive represents a milestone for freedom of information and the development of a common market in services, since the Member States committed themselves to quality-based minimum standards and, in return, introduced the country-of-origin principle in the form of the country-of-broadcast principle;

1. Calls on the Commission to evaluate the extent to which it is necessary to revise the Audiovisual Media Services Directive and other current requirements laid down in network and media regulations (e.g. the telecommunications package) with respect to the rules on findability and non-discriminatory access to platforms, for content providers and content developers as well as for users, expanding the concept of platforms, and to adapt the existing instruments to new constellations; whereas it should be ensured in so doing that consumers can benefit from increased choice and access to audiovisual media services and that content providers can benefit from more choices in how to distribute their content while maintaining contact with their audience;
2. Takes the view that, in the case of regulatory measures for platform operators, care must be taken to ensure non-discriminatory access to platforms so that broadcasters and other providers, including small-scale providers in many cases, can participate in the market on an equal basis;
3. Calls on the Commission and Member States to apply the concept of media services defined in Article 1 of the Audiovisual Media Services Directive in such a way that the need for regulation by the Member States is determined more on the basis of the potential socio-political impact of services and specific features of that impact, particularly their relevance to opinion-forming and to diversity of opinion, as well as on the basis of editorial responsibility;
4. Calls on the Commission to consider, bearing in mind the difference in remit between media services for which editorial responsibility is taken and other content, whether stricter regulation of TV platforms is still appropriate and necessary, or whether a general ban on discrimination is sufficient;
5. Calls on the Commission, in the context of a possible revision of Directive 2010/13/EU, or in any future legislation, to continue its efforts to safeguard press freedom;
6. Calls on the Commission to provide a breakdown, on the basis of its consultation process entitled 'Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values', of which regulatory mechanisms are still necessary and useful against the background of convergence and which should perhaps be established in order to create a level playing field for all content and service providers, taking account of the following minimum requirements and maintaining the existing overarching regulatory objectives, so as to ensure fair competition among content providers and guarantee users the chance to choose, in a fully transparent manner, from among a wide range of high-quality services on a footing of equal opportunity and without discrimination, with a focus on maintaining free and public services;
7. Calls on the Commission, in the event of a review of the Audiovisual Media Services Directive, to ensure fair competition among all content providers;

8. Stresses that the development strategy of these new market players will lead to an increased range of content by combining long-established TV channels with the content offering available on the internet;
9. Emphasises in this connection the risk that the economic power and the international presence of these new market players may distort this new competitive environment to the detriment of long-established European players;
10. Emphasises that consideration should be given to retaining a graduated regulatory framework for media services, in which connection the graduation should be based not on a distinction between non-linear and linear services, but rather, primarily, on the potential impact of a given media service and the editorial responsibility for the service in question, and that, at the same time, the Member States should be granted appropriate leeway to take such decisions themselves;
11. Wonders whether, against the background of increasing technological convergence, the provisions laid down by the Commission in its communication on the application of State aid rules to public service broadcasting, setting out complex procedures for assessing and analysing audiovisual services offered by public providers, which go beyond the scope of normal broadcasting activities and are made available on new platforms, are still appropriate, in particular given that it is increasingly difficult for users to tell whether the service concerned is a conventional linear broadcasting service, an on-demand service or another type of audiovisual service;
12. Calls on the Commission to have an eye to the future challenges of Connected TV, in terms of competitiveness in the industry, by allowing greater flexibility for quantitative rules on advertising, and to outline the relevant advantages and drawbacks;
13. Emphasises that, in the interests of the uniform, Europe-wide protection of consumers, children and young people and minorities, qualitative restrictions on audiovisual media services should be reviewed and tailored at a high level to all modes of dissemination;
14. Calls, in that connection, for the ban on the violation of human dignity, the ban on incitement to hatred, protection against discrimination and the principle of barrier-free access to apply in the same way to all forms of media content;
15. Wonders, in that connection, whether the principle of the division between advertising and programme content can be maintained across all types of media or whether the aim of providing protection could be better achieved by making advertising and programme content clearly recognisable and clearly distinguishable across all types of media;
16. Takes the view that the introduction of new, or the extension of existing, advertising bans or other measures which have an impact on advertising as a source of funding should be prevented so that new business models can also be employed in the digital TV sector;
17. Emphasises that it is vital for the public sector not to be dependent solely on advertising funding in order for it to retain its independence, and calls on the Member States to support efforts to provide funding for that sector;
18. Emphasises that new advertising strategies that use new technologies to increase their effectiveness (screenshots, consumer profiling, multi-screen strategies) raise the issue of

protecting consumers, their private lives and their personal data; with this in mind, emphasises that there is a need to come up with a set of consistent rules to apply to these strategies;

19. Encourages Europe's audiovisual industry to continue to develop consistent, attractive services, especially on line, so as to enrich the range of European audiovisual content on offer;
20. Calls on the Commission to examine whether and how those content providers can be granted an appropriately privileged status with regard to findability on first-screen devices, such as TV sets with a connection to the internet, to which the Member States assign a public broadcasting remit or which help to promote objectives in the public interest, such as ensuring media pluralism and cultural diversity, or which undertake to carry out duties which maintain the quality and independence of reporting and promote diversity of opinion;
21. Calls on the Commission and Member States, in addition to such 'must be found' rules, to consider to what extent a reform of media regulation so as to move towards incentive and certification schemes and strengthen co- and self-regulatory approaches can enable the aforesaid regulatory objectives of the Audiovisual Media Services Directive, in particular as regards the protection of young people and human dignity, to be attained in a lasting fashion, while at the same time maintaining the necessary flexibility for fair competition among media service providers; emphasises that any co- and self-regulation measures can supplement legal provisions and that compliance with them must be monitored and the assessment of their effectiveness must be carried out by an independent regulator;
22. Recommends, therefore, in order to avoid any distortion of competition, that the same rules should apply to the same services, irrespective of the medium of transmission;
23. Is furthermore concerned, in this context, by the increased level of competition resulting from the presence of international players that are not subject to European rules and obligations;
24. Calls on the Commission to ensure that these platforms are operated on the basis of open interoperable standards in a way which accords with market conditions and the general interest, entailing fair competition, accords with consumer demand and prevents the abuse by one or more providers of their prime position;
25. In this context, emphasises the need for consideration to be given to the development of the regulatory framework, to the ways of regulating connected TV and to the content-referencing systems;
26. Calls for connected TV platform regulation which guarantees access to, and integrity of, broadcasters' content, transparency for consumers and the application of a basic code of ethics (e.g. protection of minors and of private life);
27. Calls on the Commission and the Member States to advance the media literacy of all EU citizens, in particular, through initiatives and coordinated actions aimed at increasing understanding of linear and non-linear media services;
28. Calls on the Commission and the Member States to ensure that measures are taken, in particular, by device manufacturers and service providers to improve accessibility to linear

and non-linear media services for elderly people and people with a disability such as the hard of hearing and the visually impaired;

29. Takes the view that platform services and portal services should be interoperable, in order to give third parties the opportunity, without discrimination, to produce and market their own applications, irrespective of the medium of transmission;
30. Calls on the Commission to ensure in a legally binding manner that all content is as a matter of principle made available to the same quality standard on networks and platforms;
31. Calls on the Commission to take legally binding measures to ensure that network operators systematically treat all data packets in the same way when forwarding them from dispatchers to receivers, i.e. that they do not give certain packets priority on the basis, for example, of origin, content, use or the fee charged to users, as this would run counter to the aim of guaranteeing fair universal access to services, data protection rules, the ban on data manipulation, the principle of the integrity of content and the aim of establishing fair conditions of competition;
32. Draws attention to the effects of the disparities between VAT systems at European level, which will be further accentuated with the arrival of connected TV;
33. Calls on the Commission to propose Union legislation guaranteeing net neutrality;
34. Calls on the Commission to safeguard by law the integrity of linear and non-linear services on hybrid platforms and, in particular, to prohibit the overlay or scaling of these services by platform providers or third parties with content or other services, unless the latter have been explicitly initiated by the user and, in the case of content which is not covered by the definition of individual communication, have been authorised by the content provider; points out that unauthorised interference by third parties with the content or broadcast signals of a provider and their unauthorised decryption, use or dissemination must likewise be prevented;
35. Calls on the Commission to consider measures to take account of the risk of unauthorised sites being referenced on portals and search engines;
36. Calls on the Commission to ensure that the level of protection in respect of audiovisual media services established by means of the special regulatory requirements of the Audiovisual Media Services Directive is not undermined by unauthorised provision of access on other platforms;
37. Calls on the Commission to ensure that applications never start up automatically merely because a portal has been accessed, but that start-up must always be initiated by the user, that the return to the previously used service must always be straightforward and entail only the pressing of a button (e.g. red button function), which must be made clear to users, and that when an application is shut down the previously used service must reappear in full audiovisual quality;
38. Calls on the Commission to ensure that a content provider can take legal action against such applications on hybrid platforms which make possible or encourage the unauthorised dissemination of content made available by the content provider;

39. Calls on the Commission, where appropriate on copyright grounds, to work towards the establishment of straightforward rights clearance systems which make it possible for non-linear services made available by media service providers to be mirrored unchanged and in full on third platforms;
40. Calls on the Commission to ensure that the anonymous use of TV and on-line services by means of hybrid receiving devices that are sold in or imported into the EU is guaranteed in principle and that it is in full compliance with EU rules on privacy and data protection;
41. Calls on the Commission to exclude audiovisual media services from liberalisation measures negotiated as part of international trade agreements, in view of their dual nature and their significance for society, and, at the same time, to ensure that the concept of 'audiovisual media service' is developed to reflect the ongoing process of digitalisation and media convergence;
42. Calls on the Commission to ensure that future hybrid TV services also comply with existing legislation on child protection, on the ban on certain kinds of advertising for health reasons, on the ban on incitement to racial hatred, on the separation between news and advertising messages, on ownership transparency, privacy, etc., since these are rules which have become part of the *acquis communautaire* and which cannot be circumvented on the pretext of technological developments; in particular, calls for service providers and providers of hybrid TV equipment from outside the EU to be informed that the applicable law is that of the country where the service is provided and not the one where the providers have their registered office;
43. Calls on the Member States, in the negotiations on the multiannual financial framework, to reconsider the cut in funding, from the figure of EUR 9,2 billion originally proposed to EUR 1 billion, for the Directorate-General for Communications Networks, Content and Technology (DG Connect, CNECT), in order to cover the further development of telecommunications infrastructure;
44. Calls on the Commission to pay due attention to important audience protection issues such as the protection of minors, and believes that Electronic Programme Guides may be a possible platform on which to address these issues;
45. Regrets the fact that there are still vast areas of Europe with limited internet infrastructure, and reminds the Commission that in order to unlock the potential of Connected TV it is vital for consumers to have access to high-speed internet;
46. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.