Preparing for a fully converged audiovisual world

European Parliament resolution of 12 March 2014 on Preparing for a Fully Converged Audiovisual World (2013/2180(INI))

The European Parliament,

– having regard to Article 167 of the Treaty on the Functioning of the European Union,

– 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 the proposal from the Commission of 11 July 2012 for a directive on collective rights management and multi-territorial licensing of rights in musical works for online uses,

¹ OJ L 95, 15.4.2010, p. 1.
having regard to Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (Copyright Directive)¹,

having regard to its resolution of 4 July 2013 on ‘Connected TV’²,

having regard to Rule 48 of its Rules of Procedure,

having regard to the report of the Committee on Culture and Education and the opinion of the Committee on Legal Affairs (A7-0057/2014),

A. whereas audiovisual convergence means the merging of audiovisual media services previously delivered largely separately, and interlocking along the value chain or the grouping of various audiovisual services;

B. whereas convergence means innovation, and whereas this requires new types of cooperation between companies and sectors so that users can access audiovisual content and electronic services everywhere, at all times, and with any device;

C. whereas horizontal (sector convergence), vertical (value chain convergence) and functional convergence (convergence of applications/services) all impact on the audiovisual industry;

D. whereas technical convergence means that media law and network policy issues are increasingly overlapping;

E. whereas access to and findability of audiovisual content are becoming key factors in a converging world; whereas policy should not stand in the way of a self-regulating content labelling system that meets minimum quality standards, and whereas net neutrality is becoming more and more urgent as regards cable and mobile connections;

F. whereas technical media convergence has now become a reality – particularly for broadcasting, the press and the internet – and whereas European policies concerning media, culture and networks need to adapt the regulatory framework to the new conditions and ensure that a uniform level of regulation can be established and enforced, including as regards new entrants to the market from the EU and third countries;

G. whereas, despite growing technical convergence, experience in relation to the use of linked devices and the expectations and profile of users is still limited;

H. whereas digitisation and technical convergence alone are of limited value to citizens, and whereas support for high levels of sustained investment in original European content remains a key priority in a converging media environment;

I. whereas growing convergence makes it necessary to develop a new understanding of the way in which audiovisual media, electronic services and applications interact;

J. whereas the term ‘content gateway’ describes any entity which acts as an intermediary between audiovisual content providers and end-users and which typically brings together, selects and organises a range of content providers and provides an interface through which users can discover and access that content; whereas such gateways can include TV

platforms (like satellite, cable and IPTV), devices (like connected TVs and games consoles) or over-the-top services;

**Convergent markets**

1. Notes that the increasing trend towards horizontal concentration in the industry and vertical integration along the value chain can provide new business opportunities but may also create dominant market positions;

2. Stresses that regulation is required where content gateways control access to media and impact directly or indirectly on the shaping of opinion; calls on the Commission and the Member States, therefore, to monitor developments in this regard and to make full use of the possibilities offered by European competition and anti-trust law and, if necessary, introduce measures to safeguard diversity, and also to draw up a regulatory framework for convergence that is adapted to these developments;

3. Notes that market developments indicate that in the future companies will increasingly link network services to the provision of audiovisual content, and that the internet in its current form based on optimum access might as a result increasingly give way to a range of content geared to unilateral company interests;

4. Takes the view that all data packages in the field of electronic communication must as a matter of principle be treated equally, regardless of content, application, origin and destination (the best effort principle), and therefore calls for a free and open internet to be preserved and safeguarded, particularly as regards the development of special services;

5. Stresses the need to align the rights and obligations of broadcasters with those of other market players by means of a horizontal, cross-media legal framework;

**Access and findability**

6. Stresses that net neutrality, in line with a best-effort Internet and the non-discriminatory access to and transmission of all audiovisual content, guarantees a pluralist supply of information and a diversity of opinion and culture, and therefore represents a key element analogous to the ‘must-carry’ principle of the converged media landscape; calls on the Commission, therefore, to ensure, in a legally binding manner, compliance with the principles of internet neutrality, since this is vital where media convergence is concerned;

7. Calls for non-discriminatory, transparent and open access to the internet for all users and providers of audiovisual services, and opposes any restriction on the best effort principle through provider-specific platforms or services;

8. Reiterates that net neutrality rules do not remove the need to apply ‘must-carry’ rules for managed networks or specialised services such as cable TV and IPTV;

9. Calls for uniform standards for ensuring the interoperability of connected TVs to be developed by the industry in order not to stifle innovation;

10. Calls for the diversity of cultural and audiovisual work in a converged world to be accessible to and findable by all Europeans, in particular where the content on offer to users
is prescribed by device manufacturers, network operators, content providers or other aggregators;

11. Believes that, in order to safeguard the diversity of products and opinions, searching for and finding audiovisual content should not be determined by economic interests, and that regulatory measures should only be taken if a platform provider exploits a dominant position in the market or gatekeeper function in order to favour or discriminate against particular content;

12. Calls on the Commission to check the extent to which operators of content gateways tend to abuse their position in order to prioritise their own content, and to develop measures to rule out any future abuse;

13. Calls on the Commission to define what a platform is and to establish, if necessary, regulation that also covers technical networks’ transfer of audiovisual content;

14. Considers that open network platforms which do not occupy a dominant market position and do not hamper competition should be excluded from the regulation of platforms;

15. Believes that the creation of applications (‘apps’) should be encouraged given that it is a growing market; stresses, however, that ‘appisation’ can lead to market access problems for producers of audiovisual content; calls on the Commission to investigate where measures to secure the accessibility and findability of audiovisual media are needed and how they can be enforced, while recalling that regulatory measures should only be taken if a platform provider, by means of apps, exploits a dominant market position or gatekeeper function in order to favour or discriminate against particular content;

16. Believes that Member States should be able to take specific measures to provide a reasonable level of findability and visibility for audiovisual content of general interest, in order to guarantee diversity of opinion, while users should be able to sort the offers themselves in an uncomplicated manner;

**Safeguarding diversity and funding models**

17. Calls on the Commission, against the backdrop of media convergence, to determine how the refinancing, funding and production of quality European audiovisual content can be secured in a future-proof and balanced manner;

18. Calls on the Commission to examine the extent to which market distortions as regards quantitative and qualitative bans on advertising have arisen as a result of the unequal treatment of linear and non-linear services under Directive 2010/13/EU;

19. 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;

20. Calls on the Commission, by removing regulation in quantitative advertising provisions for linear audiovisual content, to ensure that the aims of Directive 2010/13/EU are
accomplished more successfully by increasing flexibility and strengthening co- and self-regulation;

21. Considers that new business models under which unauthorised audiovisual content is marketed represent a threat to high-quality journalism, public service media and broadcasting funded by means of advertising;

22. Takes the view that linear and non-linear offers from broadcasters or other content providers must not be altered in terms of their content or technology, and that individual content or parts thereof must not be included in programme packages or otherwise used for payment or free of charge without the consent of the broadcaster or provider;

23. Considers that, in view of convergence, the accreditation procedure for electronic information and communication services funded by means of a licence fee – insofar as these are public service audiovisual offers – must be adapted to the digital reality of media competition;

24. Emphasises that, in order to retain its independence, the public sector must continue to be shielded from the constraints of advertising-based financing, and calls on Member States to support the sector’s efforts in relation to financing;

Infrastructure and frequencies

25. Notes that widespread coverage of the most powerful broadband internet connections is a basic requirement for convergence and innovation in the media industry; stresses that such broadband networks need to be developed still further, particularly in rural areas, and calls on the Member States to rectify this problem by means of short-term investment campaigns;

26. Regrets there are still vast areas across Europe with limited internet infrastructure, and reminds the Commission that in order to unlock the potential of a converged audiovisual world, it is vital for consumers to have access to high-speed internet;

27. Urges industry actors, in anticipation of a more converged future, to work together on a voluntary basis in order to ensure that there is a common framework for media standards, so that a more consistent approach applies across different media, and also to ensure that consumers continue to understand what content has been regulated and to what extent;

28. Stresses that open and interoperable standards offer the guarantee of free and unimpeded access to audiovisual content;

29. Notes that emerging self-regulation initiatives have a crucial role to play in establishing uniform standards for user technologies and for developers and producers;

30. Stresses that DVB-T/T2 offers excellent long-term opportunities for the joint use of the 700 MHz frequency band by broadcasting and mobile communications, in particular when using promising hybrid mobile devices and by integrating TV receiver chips in mobile devices;

31. Advocates the development of a technology mix that makes efficient use of both broadcast and broadband technologies and intelligently combines broadcasting and mobile communications (‘smart broadcasting’);
32. Considers it important to have a roadmap for digital terrestrial radio in order to provide investors from both the broadcasting and mobile telephony sectors with the certainty needed for long-term planning;

**Values**

33. Regrets the Green Paper’s lack of a specific reference to the dual nature of audiovisual media as cultural and economic assets;

34. Reminds the Commission that the EU is committed to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;

35. Stresses that protecting media freedom, promoting media pluralism and cultural diversity and the protection of minors remain relevant values in an era of convergence;

36. Calls on the Commission, in the context of a possible revision of Directive 2010/13/EU, to continue its efforts to safeguard press freedom;

37. Calls on the Commission and the Member States to step up application of Article 13 of the AVMS Directive on promoting production of European works and access to those works through on-demand audiovisual media services;

38. Draws the Commission’s attention to the fact that including audiovisual culture and media in international free trade agreements represents a contradiction of the EU’s commitment to promote cultural diversity and identity and to respect Member States’ sovereignty over their own cultural heritage;

39. 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; stresses that content must remain the prime consideration; emphasises that having a large number of platforms is no guarantee of diversity of content;

40. Highlights that youth protection, consumer protection and data protection are absolute objectives of regulation and must apply uniformly to media and communications providers throughout the EU;

41. Calls on the Commission to step up its efforts to enforce youth and consumer protection provisions; calls for the same data protection requirements to apply to all media and communications service providers in the territory of the EU; stresses that consumers must be able to alter their privacy settings easily and at any time;

42. Stresses that global competition in converged markets makes it essential to draw up appropriate co- and self-regulation standards for youth and consumer protection at international level;

43. Calls on the Commission and the Member States to enhance and expand the existing range of activities aimed at imparting digital media skills, and to develop a methodology for the evaluation of media skills teaching;

**Regulatory framework**
44. Considers that European media and internet policy should aim to remove barriers to media innovation and, at the same time, not lose sight of the normative aspects of a democratic and culturally diverse media policy;

45. Stresses that similar content on the same device requires a uniform, flexible, user-friendly and accessible legal framework which is technology-neutral, transparent and enforceable;

46. Calls on the Commission to ensure that platforms are operated in a way which accords with market conditions, entailing fair competition;

47. Calls on the Commission to conduct an impact assessment so as to look into whether, in the light of developments in all audiovisual media services accessible to European citizens, the scope of the AVMS Directive is still relevant;

48. Calls on the Commission to examine to what extent the linearity criterion is preventing the regulatory objectives of Directive 2010/13/EU from being attained in many areas of the converged world;

49. Recommends deregulation for the areas of Directive 2010/13/EU in which the aims of the legislation are not being achieved; believes that, instead, European-level minimum requirements for all audiovisual media services should be put in place;

50. Stresses the importance of technology-neutral rights clearance systems in order to facilitate services of media service providers being made available on third-party platforms;

51. Stresses that the country of origin (or country of broadcasting) principle enshrined in the Audiovisual Media Services Directive is still a significant prerequisite for the provision of audiovisual content across borders and a milestone on the way to a common market in services; emphasises, however, the need to adapt EU law to the realities of the internet and the digital environment, and to pay special attention to companies offering audiovisual content on-line which try to evade taxation in certain Member States by basing themselves in countries with a very low tax rate;

52. Calls on the Commission to examine whether copyright law needs to be adapted to enable linear and non-linear content on the various platforms and their cross-border accessibility to be appropriately evaluated;

53. Calls on the Commission to enforce the principle of technology neutrality consistently and, where appropriate, to review European copyright law accordingly;

54. Instructs its President to forward this resolution to the Council and the Commission.