AUDI0V1SUAl AND MEDIA POLICY

Audiovisual policy in the EU is governed by Articles 167 and 173 of the Treaty on the Functioning of the European Union (TFEU). The key piece of legislation in this field is the Audiovisual Media Services Directive, which was revised in 2018. The main EU instrument to help the industry (especially the film industry) is the MEDIA strand of the Creative Europe programme. The Charter of Fundamental Rights of the European Union asks for respect for ‘the freedom and pluralism of the media’.

LEGAL BASIS

The Treaty of Rome did not provide for any direct powers in the field of audiovisual and media policy, and neither does the Treaty on European Union. Jurisdiction over media policy is instead drawn from various articles of the TFEU in order to construct policies for the different media and communication technology sectors. This is a necessity arising from the complex nature of media goods and services, which can be defined neither solely as cultural goods nor simply as economic goods. The legal basis is contained in the TFEU in the form of Articles 28, 30, 34 and 35 (free movement of goods); 45-62 (free movement of persons, services and capital); 101-109 (competition policy); 114 (technological harmonisation and approximation); 165 (education); 166 (vocational training); 167 (culture); 173 (industry); and 207 (common commercial policy).

OBJECTIVES

According to Article 167 TFEU, the EU encourages cooperation between Member States and, if necessary, supports and supplements their action in the area of artistic and literary creation, including the audiovisual sector. The EU’s goal in the audiovisual field is to create a single EU market for audiovisual services. It is also required to take cultural aspects into account in all EU policies. Decisions are reached under the ordinary legislative procedure.

ACHIEVEMENTS

A. Regulatory framework

1. The Audiovisual Media Services Directive (AVMSD)

During the 1980s, new developments in broadcasting technologies led to an increase in the number of commercial TV stations in the EU and to broadcasts being received in several countries. This gave rise to a need for common minimum standards, which were first laid out in the Television without Frontiers Directive in 1989 (89/552/EEC). Its first
revision in 1997 put in place the ‘country of origin’ principle, meaning that broadcasters are under the jurisdiction of the Member State in which they are based. Provisions taking into account new services, such as ‘video on demand’ (VOD), were added in the 2007 revision. The Directive was codified in 2010 and renamed as the Audiovisual Media Services Directive (AVMSD).

The Commission’s 2012 report on the application of the AVMSD and its 2013 Green Paper entitled ‘Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values’ focus on the steady increase in the convergence of media services and the way in which these services are consumed and delivered.

In order to keep up with developments, in November 2018, Parliament and the Council agreed to the Commission’s proposal to revise the AVMSD. Key elements of the amended directive adopted by Parliament and the Council included: (1) changing the limit for commercial communications from 12 minutes per hour to 20% per day between 06.00 and 18.00; (2) protecting minors from content that ‘may impair’ them, with the same regulation applying to traditional broadcasts and on-demand services; (3) extending the provisions on European works to on-demand services providers, which have to ensure that European works make up at least 30% of their catalogues; and (4) bringing video-sharing platforms (VSPs) under the scope of the AVMSD for the purposes of combating hate speech and protecting minors from harmful content.

In order to help the Member States to transpose the revised AVMSD into national law, the Commission adopted two sets of guidelines in 2020: (1) guidelines on VSPs; and (2) guidelines on European works. These guidelines are expected to contribute to the harmonised implementation and enforcement of the directive. The deadline for transposing the directive into national law, missed by most Member States, was 19 September 2020. Ireland, where the largest number of VSPs are established, was the last country to notify its legislation transposing the directive, in February 2023.

One of the goals of the AVMSD is to protect minors from inappropriate on-demand content. In 2022, a new strategy for a better internet for kids (BIK+) was adopted. Among the various initiatives in this area are the Better Internet for Kids programme and the Safer Internet Centres.

2. **Copyright in the digital single market**

On 17 April 2019, Parliament and the Council adopted the Directive on copyright and related rights in the Digital Single Market ((EU) 2019/790). The legislative text amended two previous directives on copyright-related issues (Directives 96/9/EC and 2001/29/EC). The main aim of the directive was to modernise the copyright rules for the digital single market in order to attain several fundamental objectives: (1) more cross-border access to online content; (2) more opportunities to use copyrighted materials for education, research and cultural heritage purposes; (3) a better functioning copyright marketplace; and (4) implementation of the Marrakech Treaty in EU law. The new legislation has the biggest impact on online platforms such as YouTube, Facebook and Google News.
3. Portability of online content services throughout the EU

On 14 June 2017, Parliament and the Council adopted Regulation (EU) 2017/1128 with the aim of ensuring that subscribers to online content services in their own EU country, such as those providing films, sports events, e-books, video games and music, can access them when temporarily staying in other EU countries. This regulation came after the adoption of new roaming rules that same year, which are part of the EU’s digital single market strategy.

B. Funding programmes and support initiatives

1. Creative Europe

The MEDIA strand of the Creative Europe programme is designed to strengthen the audiovisual sector’s competitiveness. On 14 December 2020, Parliament and the Council reached an agreement securing EUR 2.44 billion of funding for the Creative Europe programme (2021-2027), of which at least 58% must be allocated to the MEDIA strand and up to 9% of which must be allocated to the CROSS-SECTORAL strand, which also partly pertains to the audiovisual sector. The text was adopted by Parliament at its second reading in plenary on 19 May 2021.

The MEDIA strand aims to help audiovisual professionals to develop new skills and to stimulate cross-border cooperation and mobility and boost innovation in the creation and production of European audiovisual works. It also supports the worldwide circulation, promotion and theatrical distribution of European works in the new digital environment. The promotion of Europe’s audiovisual heritage is also explicitly mentioned as one of the priorities of the MEDIA strand.

The CROSS-SECTORAL strand promotes activities aimed at helping the media to adjust to the structural and technological challenges it faces, including by strengthening a free, diverse and pluralistic media environment, quality journalism and media literacy.

2. Action Plan for the media and audiovisual sectors

In December 2020, the Commission launched an action plan entitled ‘Europe’s Media in the Digital Decade: An Action Plan to Support Recovery and Transformation’. The audiovisual and media sectors, which were particularly badly hit by the COVID-19 crisis, remain essential for ‘democracy, Europe’s cultural diversity and digital autonomy’. The action plan focuses on three areas of activity and 10 concrete actions to help the sector: (1) to recover from the crisis; (2) to support the green and digital transformations of the sector; and finally (3) to enable and empower individuals and companies in Europe.

3. Media literacy, pluralism and freedom

Media literacy is the ability to access the media, to understand and to critically evaluate different aspects of the media and media content and to communicate in a variety of contexts. It is a fundamental skill for the younger generation and for adults. The EU considers media literacy to be an important factor in active involvement in today's information society. The Council conclusions of 30 May 2016 on developing media literacy and critical thinking through education and training underline that media literacy is more important than ever in the age of the internet and social media. In 2019, the Commission organised its first EU-wide Media Literacy Week and convened a meeting
of the Expert Group on Media Literacy, which brings together different stakeholders and meets once per year. The 2018 revision of the AVMSD strengthened the role of media literacy (Articles 33(a) and 28(b)). Furthermore, a new media literacy programme has been launched under the MEDIA strand of Creative Europe (2021-2027).

Media pluralism is the need for transparency, freedom and diversity in the media landscape. In 2011, the European University Institute established the Centre for Media Pluralism and Media Freedom with co-funding from the EU. In addition, the EU implemented the Media Pluralism Monitor (MPM) in all Member States and select candidate countries in 2016. This is a scientific tool designed to identify potential risks to media pluralism, based on a set of indicators.

In order to take further steps to safeguard media freedom and pluralism, the Commission adopted, on 16 September 2022, a new piece of legislation called the European Media Freedom Act. The proposal aims to set out mechanisms to increase the transparency, independence and accountability of actions affecting media markets, freedom and pluralism within the EU. Following the trilogue agreement, the text was adopted by Parliament on 13 March 2024 (see details below), and by the Council on 26 March 2024. Following these final two steps in the procedure, the regulation will be published in the Official Journal and enter into force 20 days later.

4. Other initiatives

On 16 November 2005, Parliament and the Council published their recommendation on film heritage and the competitiveness of related industrial activities, wherein Member States are urged to methodically collect, catalogue, preserve and restore the EU’s film heritage. Member States are asked to report on what they have done in this context every two years so that the Commission can produce an implementation report on the basis of that information.

In 2015, the European Film Forum was launched as a platform for structured dialogue between policymakers and the audiovisual sector, taking place every year at locations such as the Cannes Film Festival.

The Music Moves Europe Awards is a prize for emerging artists, co-funded by the Creative Europe programme.

ROLE OF THE EUROPEAN PARLIAMENT

Parliament has emphasised that the EU should stimulate the growth and competitiveness of the audiovisual sector while recognising its wider significance in safeguarding cultural diversity.

1. Audiovisual Media Services Directive (AVMSD)

Parliament’s resolutions on television from the 1980s and early 1990s repeatedly called for common technical standards for direct broadcasting by satellite and for high-definition television. The approval of the AVMSD in 2010 was the outcome of negotiations between Parliament and the Council that took into account most of the concerns raised during Parliament’s first reading. In 2013, Parliament called on the Commission to evaluate the need to revise the AVMSD and other existing requirements laid down in the network and media regulations. The need for revision pertained in
particular to the rules on findability and non-discriminatory access to platforms, to expanding the concept of platforms and to adapting the existing instruments to new developments.

The 2018 revised AVMSD act applies not only to broadcasters, but also to video-on-demand and VSPs such as Netflix, YouTube and Facebook, as well as to live streaming on VSPs. Parliament negotiators also managed to secure enhanced protection for children, stricter rules on advertising and a requirement for at least 30% of the content distributed via TV channels and VOD platforms to be EU-made. In May 2023, Parliament adopted its implementation report on the 2018 revised AVMSD, calling for the harmonisation of the EU’s audiovisual media market to be sped up. A study on the subject was also commissioned.

2. Creative Europe

In 2018, Parliament called for a doubling of resources for the new Creative Europe programme (2021-2027). On 14 December 2020, an agreement securing EUR 2.2 billion in funding for the programme was reached, increasing its current budget by 36%. As regards amendments to the Commission proposal on the 2021-2027 Creative Europe programme, Parliament proposed that funds be distributed to different programme strands in percentages rather than figures. In 2024, Parliament adopted its report assessing the implementation of the 2021-2027 Creative Europe programme. For more information on Creative Europe, please see the Culture fact sheet (3.6.1).

3. Action plan for the media and audiovisual sectors

In its October 2021 resolution on the Commission’s 2020 action plan for the recovery of the media and audiovisual sectors amid the COVID-19 pandemic, Parliament called for a new legislative approach. It proposed a permanent EU news media fund to protect journalistic independence, and raised concerns about media diversity, citing ownership concentration and state influence. It also stressed the need to address the ‘disruptive impact’ of global online platforms.

4. Media literacy, pluralism and freedom

Parliament’s 2019 resolution on foreign electoral interference and disinformation in national and European democratic processes urged Member States to include specific courses on media literacy in their schools’ curricula in order to improve media literacy from an early age. Parliament again gave considerable attention to the topic in its 2020 resolution on strengthening media freedom.

In its May 2021 resolution on artificial intelligence (AI) in education, culture and the audiovisual sector, Parliament underscored the impact of AI technologies on the fundamental rights and values of society. It highlighted potential risks such as data protection, discrimination and limitations on cultural and linguistic diversity, which could impede media pluralism and diversity of opinion. The resolution called for a clear ethical framework for algorithms and for the responsible use of AI in the media to prevent the dissemination of fake news and disinformation, notably through deep-fakes.

On 13 March 2024, Parliament adopted the European Media Freedom Act as agreed on in the interinstitutional negotiations with the Council. Key points from Parliament include: (1) protecting the right to access independent media content; (2) safeguarding
journalistic sources, confidentiality and public service media independence; (3) reinforcing transparency for editorial decisions within media service providers; (4) addressing the imbalance between media providers and large online platforms within the Digital Services Act rules; (5) defining roles for regulatory authorities and the involvement of the future European Board for Media Services in media market concentration issues; (6) increasing transparency in the allocation of public funds and introducing a review clause.

On 27 February 2024, Directive (EU) 2024/1069 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (known as the anti-SLAPP Directive) was adopted by Parliament in plenary. In 2023, the Committee on Culture and Education issued an opinion on this legislative file to the Committee on Legal Affairs, as the committee responsible.

5. **LUX - The European Audience Film Award**

‘LUX - The European Audience Film Award’ is an award organised by Parliament and the European Film Academy. It aims to promote the distribution and visibility of European films throughout the EU by inviting European audiences to become active protagonists by voting for their favourite films, and by providing subtitling for the three films nominated for the prize in the 24 official EU languages and for persons who are deaf or hard of hearing.

For more information on this topic, please see the website of the Committee on Culture and Education.

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