



AUDIOVISUAL 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 within 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, 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 of the 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 their broadcasts being able to be received in several countries. This gave rise to a need for common minimum standards, which were first laid out in the so-called 'Television without frontiers' (TVWF)



Directive in 1989 (89/552/EEC)^[1]. 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 the Audiovisual Media Services Directive (AVMSD)^[2].

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 pace with recent developments, in 2016 the Commission proposed a further [revision](#) of the AVMSD. The interinstitutional trilogue negotiations on the text were concluded in mid-2018. Key elements of the text agreed 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. The amended directive (Directive (EU) 2018/1808^[3]) was adopted by Parliament and the Council on 14 November 2018.

In order to help Member States to transpose the revised AVMSD into national law, the Commission adopted two sets of guidelines in 2020: (1) guidelines on VSPs^[4]; and (2) guidelines on European works^[5]. These guidelines are expected to contribute to the harmonised implementation and enforcement of the directive.

Concerning the protection of minors, the rules of the revised AVMSD were supplemented by the 1998^[6] and 2006^[7] recommendations on the protection of minors and human dignity. In 2012, the [European Strategy for a Better Internet for Children](#) was adopted, which is supported under the Connecting Europe Facility and through programmes such as [Horizon 2020](#). 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)^[8]. 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](#)

[1]OJ L 298, 17.10.1989, p. 23.

[2]OJ L 95, 15.4.2010, p. 1.

[3]OJ L 303, 28.11.2018, p. 69.

[4]OJ C 223, 7.7.2020, p. 3.

[5]OJ C 223, 7.7.2020, p. 10.

[6]OJ L 270, 7.10.1998, p. 48.

[7]OJ L 378, 27.12.2006, p. 72.

[8]OJ L 130, 17.5.2019, p. 92.



[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.

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 2.2 billion of funding for the next 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 agreement still needs to be approved by Parliament as a whole and by the Council.

The MEDIA strand aims to help audiovisual professionals to develop new skills and also aims to stimulate cross-border cooperation and mobility and boost innovation in the creation and production of European audiovisual works, such as films and television programmes (fiction, children's and animated films, documentaries and short films), interactive works (video games), and European and international co-productions. It also supports the worldwide circulation, promotion and online and theatrical distribution (via distribution platforms and subtitling, dubbing and audio-description) of European works in the new digital environment. Building on the success of its predecessors, the MEDIA and MEDIA Mundus programmes, in 2021 the MEDIA programme celebrated 30 years of supporting European films.

The CROSS-SECTORAL strand promotes activities aiming at adjusting to the structural and technological challenges faced by the media, including 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](#)'. These sectors, which have been particularly badly hit by the coronavirus 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 (i.e. by facilitating access to EU support, boosting investment and launching a 'NEWS' initiative to bundle actions and support), (2) to transform itself by stimulating investment to enable it to embrace the digital and green transitions (i.e. by encouraging the development of European media data spaces, by fostering a European virtual and augmented reality industrial coalition, and by facilitating discussions and actions enabling the industry to become climate-neutral by 2050), and finally (3) to empower individuals and companies in Europe to launch a dialogue with the audiovisual industry, foster European media talents, empower individuals in Europe and strengthen cooperation among regulators.



3. [Media literacy](#) and media pluralism

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 on developing media literacy and critical thinking through education and training of 30 May 2016^[9] underline that media literacy is more important than ever in the age of the internet and social media and that it needs to be an integral part of education and training at all levels. Additionally, 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 also strengthened the role of media literacy (Articles 33(a) and 28(b)). Furthermore, a new media literacy programme will be 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 2018, the MPM was adapted and modernised. These initiatives testify the EU's continuing efforts to improve the protection of media pluralism and media freedom in Europe, and to determine what actions need to be taken in this field at EU or national level.

4. Other initiatives

[European film heritage](#)

On 16 November 2005, Parliament and the Council published their recommendation on film heritage and the competitiveness of related industrial activities^[10], wherein the Member States are called on to methodically collect, catalogue, preserve and restore Europe's film heritage so that it can be passed on to future generations. The Member States are also asked to report on what they have done in this context every two years so the Commission can produce an implementation report on the basis of that information. The promotion of Europe's audiovisual heritage is also explicitly mentioned as one of the priorities of the MEDIA strand of the new 2021-2027 Creative Europe programme.

Furthermore, during the Cannes Film Festival, the EU organises discussions and panels on various topics such as film financing and distribution, audience development and innovation. In 2005, the [European Film Forum](#) was launched as a platform for structured dialogue between policymakers and the audiovisual sector. A 'New talent in the EU' award was introduced in 2004 to promote the work of young European directors who have taken MEDIA-sponsored training. The [European Border Breakers Award](#) is a prize for emerging artists co-funded by the Creative Europe programme.

[9]OJ C 212, 14.6.2016, p. 5.

[10]OJ L 323, 9.12.2005, p. 57.



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.

Parliament has been following the implementation of the AVMSD very closely. In its 2013 resolution on the implementation of the Audiovisual Media Services Directive^[11], Parliament presented several observations and recommendations, in particular as regards accessibility, the promotion of European audiovisual works, the protection of minors, advertising, future challenges and international competition.

In its 2013 resolution on connected TV^[12], Parliament called on the Commission to evaluate the necessity to revise the AVMSD and other current 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.

On 12 March 2014, Parliament adopted a resolution on preparing for a fully converged audiovisual world^[13] (responding to the Commission's Green Paper on the same issue). In it Parliament takes note of the convergence of markets, stresses the need to preserve access and findability and to safeguard diversity and funding models, and analyses infrastructure and frequencies, values, and the regulatory framework.

In the framework of the ordinary legislative procedure related to the AVMSD revision launched by the Commission in 2016, the Committee on Culture and Education (CULT Committee) voted on its [report](#) in April 2017, in its role as lead committee on the issue, and decided to open interinstitutional negotiations with the Council. Following the conclusion of the negotiations, the revised legislation will apply to broadcasters, but also to video-on-demand and video-sharing platforms such as Netflix, YouTube and Facebook, as well as to live streaming on video-sharing platforms. 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.

2. Creative Europe

Building on its 2011 resolution on European cinema in the digital era^[14], Parliament's resolution of 28 April 2015 on European film in the digital era^[15] expresses strong

[11]OJ C 55, 12.2.2016, p. 71.

[12]OJ C 75, 26.2.2016, p. 141.

[13]OJ C 378, 9.11.2017, p. 140.

[14]OJ C 153E, 31.5.2013, p. 102.



support for European filmmakers, highlighting the role of the financial support provided by the MEDIA sub-programme of the 2014-2020 Creative Europe programme. It also stresses the importance of film literacy and audience development.

Its resolution of 11 September 2012 on the online distribution of audiovisual works in the European Union^[16] explores aspects of copyright and the challenges posed by the digital availability of audiovisual works. An implementation report on the 2014-2020 Creative Europe programme, and thus also on its MEDIA sub-programme, was voted in the CULT Committee in January 2017 and a corresponding resolution was adopted in plenary on 2 March 2017^[17]. The resolution emphasised the importance of an appropriate budget, simplified administrative procedures and support in enabling small-scale organisations or projects to access funding.

3. Media literacy

An own-initiative report on media literacy in a digital world^[18] was voted on in the CULT Committee in November 2008 and a corresponding resolution was adopted in plenary on 16 December 2008. It stressed the central role of media literacy in ‘political culture and active participation by Union citizens’. This resolution marked an important step towards further EU action in the field.

4. [LUX - The European Audience Film Award](#)

‘LUX - The European Audience Film Award’, also called LUX Audience Award, is a newly minted award built on the Lux Prize, the film prize of the European Parliament established in 2007, and on the People’s Choice Award of the European Film Academy, introduced in 1997. 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 the deaf and hard of hearing.

[Katarzyna Anna Iskra / Sophia Thoenes](#)
02/2021

[15]OJ C 346, 21.9.2016, p. 10.

[16]OJ C 353E, 3.12.2013, p. 64.

[17]OJ C 263, 25.7.2018, p. 19.

[18]OJ C 45E, 23.2.2010, p. 9.

