

## REVIEW OF THE AUDIOVISUAL MEDIA FRAMEWORK

[ ADOPTED ]

>  DIGITAL SINGLE MARKET PACKAGE>  BETTER BUSINESS ENVIRONMENT FOR DIGITAL NETWORKS & SERVICESJD  
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*For a brief overview of the key points of the adopted text and its significance for the citizen, please see the corresponding [summary note](#).*

Over the past ten years, the audiovisual market has evolved rapidly, leading to the gradual convergence of audiovisual media. While the conventional TV screen remains a widely used device to share audiovisual experiences, many viewers increasingly access on-demand content via smart phones or tablets. Nevertheless, TV broadcasting, video on-demand (VOD) and user-generated content are currently subject to different rules and varying levels of consumer protection. The recent Commission proposal on provision of audiovisual media services, put forward on 25 May 2016, aims at addressing these discrepancies by introducing more flexible future-proof rules when restrictions only applicable to TV are no longer justified.

In practical terms, the hourly 20 % limit on advertising time becomes a daily limit (between 7 a.m. and 11 p.m.). The two-tier approach (i.e. lighter regulation for VOD compared with TV broadcasting) in terms of protection of minors is replaced by common rules valid for all audiovisual media services providers without distinction concerning content that 'may impair'. The grounds for prohibiting hate speech are set to be aligned to those of the framework decision on combating certain forms and expressions of racism and xenophobia. With respect to the promotion of European works, the European Commission suggests that at least 20 % of the catalogues of VOD providers offer prominence to such works. The proposal also formalises the role of the European Regulators Group for Audiovisual Media Services (ERGA). Finally, the scope of the directive is extended to include online videosharing platforms for the first time.

The European Commission proposal was referred to the European Parliament Committee on Culture and Education (CULT) on 9 June 2016. The draft report was presented on 26 September 2016 by the two co-rapporteurs Petra Kammerevert (S&D, Germany) and Sabine Verheyen (EPP, Germany). Some 1400 amendments were tabled altogether by CULT as well as in the four committees – ENVI, IMCO, JURI, and LIBE – providing opinions.

While broadly welcoming the Commission proposal, the opinion of the Committee of the Regions (rapporteur Jácint Horváth, PES, Hungary), adopted on 7 December 2016, supports a stronger role for ERGA and the introduction of quotas for European works, but considers that the 20 % minimum requirement does not go far enough.

Similarly, the opinion of the European Economic and Social Committee (rapporteur Raymond Hencks, Workers - GR II / Luxembourg), adopted on 19 October 2016, proposes that the minimum 20 % quota imposed on VOD providers be increased to 50 %, but opposes the financial contributions required from VOD providers, as well as the increased flexibility offered to advertisers. On 23 May 2017, the Council reached a general approach, paving the way for inter-institutional trilogue talks. Nine such trilogue meetings were necessary for negotiators from Parliament and the Bulgarian Presidency to agree on new rules for audiovisual media services. The deal was struck on 6 June 2018.

In order to support the cultural diversity of the European audiovisual sector, MEPs suggested that 30 % of content, including in the VOD service providers' catalogues, should be European.

VOD platforms are also required to contribute to the development of European audiovisual productions, either through direct investment in content or through contributions to national funds. The level of these contributions should be proportional to VOD service providers' revenues in the country where they are established or in the country whose audience they target mostly.

The new rules on advertising impose a maximum 20 % daily quota between 6 a.m. and 6 p.m., allowing broadcasters to adjust their advertising periods. A prime-time window was also set between 6 p.m. and midnight, during which advertising will only be allowed to take up a maximum of 20 % of broadcasting time.

The new legislation includes strict rules on advertising and product placement in children's programmes and content available on VOD platforms. Broadcasters are required to put in place measures to effectively reduce children's exposure to publicity on unhealthy food or beverages. Product placement and teleshopping will be prohibited in children's programmes, while EU countries can decide individually whether they also wish to exclude sponsorship.

Additionally, Parliament negotiators secured a personal data protection mechanism for children, imposing measures to ensure that data collected by audiovisual media providers are not processed for commercial use, including profiling and behaviourally targeted advertising.

MEPs also set up new rules proscribing content inciting violence, hatred and terrorism, while gratuitous violence and pornography will be subject to the strictest rules.

Co-regulation and self-regulation are still the rule. However, video-sharing platforms will now be responsible for reacting quickly when content is reported by users as harmful. At the request of the Parliament, platforms will need to create a transparent, easy-to-use and effective mechanism to allow users to report harmful content. Technical solutions to explain the nature of the content in the hosted videos and follow-up when a video has been flagged are also required.

The integrity of the signal is guaranteed by a new set of rules. Concretely, in the case of smart TVs, service providers will not be allowed to add windows with content to the screen during a programme, without first having the agreement of the broadcaster. Rules are also

foreseen to ensure that service providers continuously and progressively make audiovisual services more accessible to people with disabilities.

Following the political agreement, a vote in plenary to endorse the new rules took place on 2 October 2018. The Council adopted the new directive on 6 November 2018.

The final act was signed by the legislators on 14 November 2018 and published in the EU Official Journal on 28 November 2018. After its publication in the Official Journal, EU countries will have 21 months to transpose it into national legislation.

## References:

- EP Legislative Observatory, [Procedure file on Audiovisual media services: changing market realities](#), 2016/0151(COD)
- Council, Press release, Council adopts new EU rules, 6 November 2018
- Council, [Progress report](#) on the Proposal for a Directive of amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities, 13624/1/16, 22 November 2016
- European Commission, [Commission updates EU audiovisual rules and presents targeted approach to online platforms](#), Press release, 25 May 2016
- European Parliament, Committee on Culture and Education, [Draft report](#) on the proposal for a directive amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities, 2016/0151(COD)

## Further reading:

- European Parliament, EPRS, [The Audiovisual Media Services Directive](#), Briefing, April 2017
- European Parliament, EPRS, [Audiovisual Media Services Directive](#), Briefing Implementation Appraisal, June 2016

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