

# EUROPEAN PARLIAMENT

2004



2009

Committee on Culture and Education

27.9.2006

PE 378.764v01-00

## AMENDMENTS 592-678

### Draft report

(PE 376.676v01-00)

### Ruth Hieronymi

Proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

Proposal for a directive (COM(2005)0646 – C6-0443/2005 – 2005/0260(COD) – amending act)

Text proposed by the Commission

Amendments by Parliament

Amendment by Michl Ebner

Amendment 592

ARTICLE 1, POINT 5

Article 3, paragraph 2 (Directive 89/552/EEC)

(2) Member States shall, by appropriate means, **ensure**, within the framework of their legislation, that media service providers under their jurisdiction effectively comply with the provisions of this Directive.

(2) Member States shall **ensure** by appropriate means, **including the introduction of suitable penalties in proportion to the potential benefits obtained by infringing the provisions laid down**, within the framework of their legislation **and in accordance with existing oversight procedures that have proved effective in the various Member States**, that media service providers under their jurisdiction effectively comply with the provisions of this Directive. **The economic penalties imposed must be sufficiently**

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***dissuasive to ensure that infringements of the provisions continue to be the exception and are unlikely to be repeated.***

Or. it

*Justification*

*The sanctions imposed must be capable of deterring market operators from breaking the rules. In particular, the penalties must ensure, first of all, that any presumed and/or actual benefit deriving from the infringement is forfeited and, secondly and as an additional rather than an alternative measure, adequate monetary penalties must be introduced in order to deter those responsible from repeating the offence or infringing the rules in any other way.*

Amendment by Luis Herrero-Tejedor

Amendment 593  
ARTICLE 1, POINT 6 A (new)  
Article 4 (Directive 89/552/EEC)

***(6a) Article 4 is deleted***

Or. es

*Justification*

*Quotas interfere with broadcasters' programming freedom. The digital era encourages pluralism and user choice and the use of quotas is therefore obsolete. The interests of the user and not the legislator should dictate what services providers offer.*

Amendment by Christopher Heaton-Harris

Amendment 594  
ARTICLE 1, POINT 6 A (new)  
Article 4 (Directive 89/552/EEC)

***(6a) Article 4 is deleted.***

Or. en

*Justification*

*With the greater diversity offered by more services, quota provisions are unnecessary. There are more effective ways of encouraging the production and broadcasting of European works.*

Amendment by Luis Herrero-Tejedor

Amendment 595  
ARTICLE 1, POINT 6 B (new)  
Article 5 (Directive 89/552/EEC)

***(6b) Article 5 is deleted***

Or. en

*Justification*

*Quotas interfere with broadcasters' programming freedom. The digital era encourages pluralism and user-choice and therefore the establishment of quotas is obsolete. The users' interests rather than the legislator should dictate what services providers offer.*

Amendment by Christopher Heaton-Harris

Amendment 596  
ARTICLE 1, POINT 6 A (new)  
Article 5 (Directive 89/552/EEC)

***(6a) Article 5 is deleted***

Or. en

*Justification*

*With the greater diversity offered by more services, quota provisions are unnecessary. There are more effective ways of encouraging the production and broadcasting of European works.*

Amendment by Jorgo Chatzimarkakis

Amendment 597  
ARTICLE 1, POINT 6 B (new)  
Article 5 (Directive 89/552/EEC)

***(6b) Article 5 is deleted***

Or. en

*Justification*

*A quote for European productions is not necessary.*

Amendment by Helga Trüpel, Jean-Luc Bennahmias

Amendment 598

ARTICLE 1, POINT 7, POINT (A A) (new)  
Article 6, paragraph 1 (Directive 89/552/EEC)

***(aa) In paragraph 1, the following point (d) is added:***

***“(d) In defining the term ‘independent producer’, the Member States shall take appropriate account of the following four criteria:  
ownership and proprietary rights of the production firm; number of programmes provided to the same broadcaster, and ownership of secondary rights”***

Or. en

*Justification*

*In order to make a realistic assessment of the works of independent producers, it is particularly important to be aware of the distribution of proprietary and broadcasting rights, also the ownership of the production company itself is a key factor for independence.*

Amendment by Luis Herrero-Tejedor

Amendment 599

ARTICLE 1, POINT 9  
Article 10, paragraph 1 (Directive 89/552/EEC)

(1) Television advertising and teleshopping shall be readily recognizable ***and kept quite separate from other parts of the programme service by optical and/or acoustic means.***

(1) Television advertising and teleshopping shall be readily recognizable ***and distinguishable from editorial content.***

Or. es

*Justification*

*Isolated advertising does not interrupt programmes and viewers prefer it to lengthy advertising breaks.*

Amendment by Helga Trüpel, Jean-Luc Bennahmias

Amendment 600

ARTICLE 1, POINT 9

Article 10, paragraph 1 (Directive 89/552/EEC)

1. Television advertising and teleshopping shall be readily recognizable and kept quite *separate* from other parts of the programme service by optical and/or acoustic means.

1. Television advertising and teleshopping shall be readily recognizable and *distinguishable from editorial content*. *Without prejudice to the use of new advertising techniques, television advertising and teleshopping shall be* kept quite *distinct* from other parts of the programme service by optical and/or acoustic *and/or spatial* means.

Or. en

*Justification*

*We need a transparent and effective consumer protection to distinguish those advertising forms from editorial content.*

Amendment by Christopher Heaton-Harris

Amendment 601

ARTICLE 1, POINT 9

Article 10, paragraph 1 (Directive 89/552/EEC)

1. Television advertising and teleshopping shall be readily recognizable and *kept quite separate* from other parts of the programme service by optical and/or acoustic means.

1. Television advertising and teleshopping shall be readily recognizable and *distinguishable* from other parts of the programme service by optical and/or acoustic means. *Television advertising and teleshopping shall not interfere with the editorial independence of the audiovisual media service provider nor mislead the viewer.*

Or. en

*Justification*

*The principle of transparency and identification ensures that commercial communications are recognisable as such and leaves room for the development of new advertising techniques.*

Amendment by Michl Ebner

Amendment 602

ARTICLE 1, POINT 9

Article 10, paragraph 1 (Directive 89/552/EEC)

(1) Television advertising and teleshopping shall be readily recognizable and kept quite separate from other parts of the programme service by optical and/or acoustic means.

(1) Television advertising, teleshopping **and telepromotions** shall be readily recognizable and kept quite separate from other parts of the programme service by optical and/or acoustic means. **Telepromotions may not be performed on-air by programme presenters and personalities connected with the audiovisual media services.**

Or. it

*Justification*

*As indicated in amendment 1, telepromotions should also be covered by the directive.*

Amendment by Luis Herrero-Tejedor

Amendment 603

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

**(2) Isolated advertising and teleshopping spots, other than in sports programmes, shall remain the exception.**

**deleted**

Or. es

*Justification*

*Isolated advertising does not interrupt programmes and furthermore viewers prefer it to lengthy advertising breaks.*

Amendment by Ignasi Guardans Cambó

Amendment 604

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

**2. Isolated advertising and teleshopping**

**deleted**

***spots, other than in sports programmes,  
shall remain the exception.***

Or. en

*Justification*

*The content on the platforms other than traditional TV is usually accessed for short periods, so it will be imperative to allow short advertising interruptions to adapt to these new forms of distribution.*

Amendment by Karsten Friedrich Hoppenstedt

Amendment 605

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

***2. Isolated advertising and teleshopping spots, other than in sports programmes, shall remain the exception.*** *deleted*

Or. de

*Justification*

*Unlike fixed blocks of advertising, isolated spots can be more easily incorporated into the programme and are thus less distracting for the viewer, as recent studies have shown. In view of the growing economic pressure on TV service providers, isolated advertising spots should be unequivocally permitted. This counteracts the concentration on pay-to-view content, and thus promotes diversity in the European media world.*

Amendment by Christopher Heaton-Harris

Amendment 606

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

**2. Isolated advertising and teleshopping spots, other than in sports programmes, shall remain the exception. *deleted***

Or. en

*Justification*

*Restrictions on advertising should be lifted to allow European media service providers to better compete and to sustain revenue in order to finance and invest in European audiovisual content. The consumer is the best regulator of the amount and type of advertising.*

Amendment by Giovanni Berlinguer, Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 607

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

2. Isolated advertising and teleshopping spots, ***other than in sports programmes***, shall remain the exception.

2. Isolated advertising and teleshopping spots shall remain the exception.

Amendment by Helga Trüpel, Monica Frassoni

Amendment 608

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

2. Isolated advertising and teleshopping spots, ***other than in sports programmes, shall remain the exception.***

2. Isolated advertising and teleshopping spots ***shall remain the exception.***

Or. en

*Justification*

*Isolated advertising and teleshopping spots should still remain the exception; otherwise the*



*integrity of European audiovisual works would be undermined.*

Amendment by Manolis Mavrommatis

Amendment 609

ARTICLE 1, POINT 9

Article 10, paragraph 2 (Directive 89/552/EEC)

2. Isolated advertising and teleshopping spots, other than in *sports programmes*, shall remain the exception.

2. Isolated advertising and teleshopping spots, other than in *the transmission of sporting events*, shall remain the exception.

Or. el

*Justification*

*These spots should be intended for the transmission of sporting events (fitting in with their natural breaks) and not for programmes with a sports content in general.*

Amendment by Jorgo Chatzimarkakis

Amendment 610

ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

*1. Member States shall ensure, where advertising or teleshopping is inserted during programmes, that the integrity of the programmes and the rights of the right holders are not prejudiced.*

*deleted*

Or. de

*Justification*

*Quantitative restrictions on advertising are not a justifiable means of managing programme content. The ban on breaks in religious programmes in the past has not brought such programmes any clear advantage and should, from a secular point of view, be rejected.*

Amendment by Marie-Hélène Descamps

Amendment 611

ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

1. **Member States shall ensure, where advertising or teleshopping is inserted during programmes, that *the integrity of the programmes and* the rights of the right holders are not prejudiced.**

1. Advertising **and** teleshopping **spots shall be inserted between programmes. Under the conditions laid down in paragraph 2, advertising and teleshopping spots may also be inserted** during programmes, **taking into account natural interruptions in the programme and its duration and nature, in such a way** that the rights of the right holders are not prejudiced.

Or. fr

*Justification*

*The principle of inserting advertising and teleshopping spots between programmes should be maintained. When these insertions come during programmes they must ensure the integrity and value of the programmes and respect the rights of right holders.*

Amendment by Henri Weber, Giovanni Berlinguer

Amendment 612

ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

(1) **Member States shall ensure, where advertising or teleshopping is inserted during programmes, that *the integrity of the programmes and* the rights of the right holders are not prejudiced.**

(1) Advertising **and** teleshopping **spots shall be inserted between programmes. Under the conditions laid down in paragraph 2, advertising and teleshopping spots may also be inserted** during programmes, **in a manner which does not undermine their integrity, taking into account natural interruptions in the programme, in such a way** that the rights of the right holders are not prejudiced.

Or. fr

*Justification*

*The substantial relaxation proposed by the Commission in Article 11 would seriously jeopardise the balance currently in place between the need for programme funding, ease of viewing, programme quality and respect for works. However, it seems fair to allow broadcasters greater flexibility as regards the insertion of advertising spots in their programmes.*

*Consequently, in line with the principle of separating advertising from the rest of the*

*programme, the equally fundamental principle of inserting advertising between programmes must be made explicit. The proposal thus aims to maintain the essence of the current Article 11(1), in particular by preserving the criterion of ‘natural programme interruptions’, which makes it possible to prevent sudden or untimely interruptions.*

*Article 11(2) represents a compromise between the need to preserve the quality and integrity of all programmes – in particular, series, serials, light entertainment programmes and documentaries – and the legitimacy of offering broadcasters more flexibility by replacing the 20 minute rule with three interruptions per clock hour.*

*Article 11(3) seeks to provide a framework for the retransmission of sports events, whose unpredictable nature justifies special arrangements so as not to deprive viewers of phases of play.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 613

ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

(1) ***Member States shall ensure, where advertising or teleshopping is inserted during programmes, that the integrity of the programmes and the rights of the right holders are not prejudiced.***

(1) ***Any advertising or teleshopping inserted during programmes which prejudices the integrity of the programmes and the rights of the right holders shall be prohibited.***

Amendment by Marielle de Sarnez, Claire Gibault

Amendment 614

ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

(1) ***Member States shall ensure, where advertising or teleshopping is inserted during programmes, that the integrity of the programmes and the rights of the right holders are not prejudiced.***

(1) ***Advertising and teleshopping spots shall be inserted between programmes. Under the conditions laid down in paragraph 2, advertising and teleshopping spots may also be inserted during programmes, in a manner which does not undermine their integrity, taking into account natural interruptions in the programme, in such a way that the rights of the right holders are not prejudiced.***

Or. fr

*Justification*

*The substantial relaxation proposed by the Commission in Article 11 would seriously jeopardise the balance currently in place between the need for programme funding, ease of viewing, programme quality and respect for works. However, it seems fair to allow broadcasters greater flexibility as regards the insertion of advertising spots in their programmes.*

Amendment by Jean-Luc Bennahmias, Carl Schlyter

Amendment 615

ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

1. Member States shall ensure, where advertising or teleshopping is inserted during programmes, that the integrity of the programmes and the rights of the right holders are not prejudiced.

**1. *Advertising and teleshopping spots shall in principle be inserted between programmes.*** Member States shall ensure, where advertising or teleshopping is inserted during programmes, that the integrity of the programmes and the rights of the rights-holders, ***including the moral rights of the authors,*** are not prejudiced, ***since advertising breaks constitute an infringement of the moral right of the author unless the author has consented to the insertion.***

Or. en

*Justification*

*To protect the integrity of European works and to safeguard cultural diversity, it is necessary to avoid too much commercials during the transmission of audiovisual works.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 616

ARTICLE 1, POINT 10

Article 11, paragraph 1, point (a) (new) (Directive 89/552/EEC)

***(a) In the case of programmes consisting of separate parts or sports programmes, news programmes and similarly structured shows comprising intervals, advertising and teleshopping spots may be inserted only between the separate parts of the programme or in the intervals.***

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 617

ARTICLE 1, POINT 10

Article 11, paragraph 1, point (b) (new) (Directive 89/552/EEC)

***(b) Where advertising or teleshopping spots are inserted in programmes other than those referred in paragraph 2, at least twenty minutes must elapse between each successive interruption in the course of a single programme.***

Amendment by Christopher Heaton-Harris

Amendment 618

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

***2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.*** ***deleted***

***No advertising or teleshopping may be inserted during religious services.***

*Justification*

*Restrictions on advertising should be lifted to allow European media service providers to better compete and to sustain revenue in order to finance and invest in European audiovisual content.*

*The consumer is the best regulator of the amount and type of advertising.*

*Advertising during religious services does not need to be regulated at EU level.*

Amendment by Jorgo Chatzimarkakis

Amendment 619

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

**2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.** *deleted*

*Justification*

*Quantitative restrictions on advertising are not a justifiable means of managing programme content. The ban on breaks in religious programmes in the past has not brought such programmes any clear advantage and should, from a secular point of view, be rejected.*

Amendment by Luis Herrero-Tejedor

Amendment 620

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 (Directive 89/552/EEC)

**2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news** *deleted.*

*programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.*

Or. es

*Justification*

*Any restrictions on the inclusion of advertising in specific content under this article would undermine the industry's competitiveness.*

Amendment by Henri Weber, Giovanni Berlinguer

Amendment 621

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, ***philharmonic concerts, operas***, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 45 minutes.

***The transmission of programmes other than those referred to in the preceding paragraph may be interrupted by advertising and/or teleshopping spots, up to a maximum of three interruptions within a given clock hour.***

***Notwithstanding the preceding paragraph, where sporting events containing interruptions are retransmitted, advertising and teleshopping spots may only be inserted during these interruptions. Where the sporting event contains no interruptions, advertising and teleshopping spots shall be inserted under the conditions set out in the preceding paragraph.***

No advertising or teleshopping may be inserted during religious services.

No advertising or teleshopping may be inserted during religious services.

Or. fr

### *Justification*

*The substantial relaxation proposed by the Commission in Article 11 would seriously jeopardise the balance currently in place between the need for programme funding, ease of viewing, programme quality and respect for works. However, it seems fair to allow broadcasters greater flexibility as regards the insertion of advertising spots in their programmes.*

*Consequently, in line with the principle of separating advertising from the rest of the programme, the equally fundamental principle of inserting advertising between programmes must be made explicit. The proposal thus aims to maintain the essence of the current Article 11(1), in particular by preserving the criterion of ‘natural programme interruptions’, which makes it possible to prevent sudden or untimely interruptions.*

*Article 11(2) represents a compromise between the need to preserve the quality and integrity of all programmes – in particular, series, serials, light entertainment programmes and documentaries – and the legitimacy of offering broadcasters more flexibility by replacing the 20 minute rule with three interruptions per clock hour.*

*Article 11(3) seeks to provide a framework for the retransmission of sports events, whose unpredictable nature justifies special arrangements so as not to deprive viewers of phases of play.*

Amendment by Jean-Luc Bennahmias, Carl Schlyter

Amendment 622

ARTICLE 1, POINT 10

Article 11, paragraph 2, (Directive 89/552/EEC)

2. The transmission of ***films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children’s programmes and news programmes*** may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

2. The transmission of children’s programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

Or. en

### *Justification*

*To protect the integrity of European works and to safeguard cultural diversity, it is necessary to avoid too much commercials during the transmission of audiovisual works.*



Amendment by Karin Resetarits

Amendment 623

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes..

2. The **linear** transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes. ***Without prejudice to Article 3, non-linear audiovisual media services may determine the nature and length of advertising breaks in accordance with their own standards.***

Or. de

*Justification*

*This passage, if it is necessary at all, only makes sense in the sphere of linear broadcasting. Advertising in the non-linear sector must be dealt with in a flexible manner, otherwise it will tend to put consumers off.*

Amendment by Helga Trüpel

Amendment 624

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), ***cinematographic works***, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **35** minutes.

2. The transmission of films made for television (excluding series, serials, light entertainment programmes, and documentaries), children's programmes and news programmes, ***provided that their scheduled duration exceeds 30 minutes***, may be interrupted by advertising and/or teleshopping once for each period of **30** minutes. ***The transmission of cinematographic works, provided their scheduled duration exceeds 45 minutes, may be interrupted once for each period of 45 minutes. A further interruption shall be allowed if their scheduled duration is at***

***least 20 minutes longer than two or more complete periods of 45 minutes.***

Or. en

*Justification*

*Cinematographic works should still be protected in a strong way, there should be a "lighter" touch for television films and normal provisions for formats usually lasting between 30 and 60 minutes.*

Amendment by Marie-Hélène Descamps

Amendment 625

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 a (new) (Directive 89/552/EEC)

***The transmission of programmes other than those referred to in the preceding paragraph, with the exception of religious services, may be interrupted by advertising and/or teleshopping spots once for each period of 20 minutes.***

Or. fr

*Justification*

*The aim of including this rule is to limit any excessive rise in the number of advertising breaks which would prejudice the quality of programmes (e.g. series, serials, documentaries, current affairs, sports and light entertainment programmes) by simplifying the arrangements and offering broadcasters greater flexibility as regards programme breaks.*

Amendment by Marielle De Sarnez, Claire Gibault

Amendment 626

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 a and 1 b (new) (Directive 89/552/EEC)

***The transmission of programmes other than those referred to in the preceding paragraph may be interrupted by advertising and/or teleshopping spots, up to a maximum of three interruptions within a given clock hour.***

***Notwithstanding the preceding paragraph, where sporting events containing interruptions are retransmitted, advertising and teleshopping spots may only be inserted during these interruptions. Where the sporting event contains no interruptions, advertising and teleshopping spots shall be inserted under the conditions set out in the preceding paragraph.***

Or. fr

*Justification*

*The additional relaxation proposed would seriously jeopardise the balance between the need for programme funding, ease of viewing and respect for works.*

Amendment by Åsa Westlund

Amendment 627

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 2 (Directive 89/552/EEC)

No advertising ***or teleshopping*** may be inserted during religious services."

No advertising may be inserted during ***children's programmes or*** religious services."

Or. en

*Justification*

*Children can not separate advertisements from content. Therefore no teleshopping or advertisements should be allowed in children's programs.*

Amendment by Ivo Belet

Amendment 628

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, ***children's programmes and news***

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries) ***and*** cinematographic works may be interrupted by advertising and/or

*programmes* may be interrupted by advertising and/or teleshopping once for each period of 35 minutes..

No advertising or teleshopping may be inserted during religious services. ."

teleshopping once for each period of 35 minutes.

No advertising or teleshopping may be inserted during religious services, *children's programmes or news programmes.*"

Amendment by Miguel Portas, Věra Flasarová

Amendment 629

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **35** minutes.

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **24** minutes.

Or. en

*Justification*

*Considering the right to broadcast 12 minutes of advertising per hour, the case of successive uninterrupted periods of 35 minutes would lead to advertising blocks of 12 minutes, which do not fit neither the interest of the public, neither the interest of broadcasters. In these cases, the consideration of 24 minutes would make possible to have in one hour 2 advertising blocks (of 6 minutes each or any other division of the 12 minutes in two parts, including the possibility of one or both blocks being constituted by isolated spots), which seems to be a better solution.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 630

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by

advertising and/or teleshopping once for each period of **35** minutes.

advertising and/or teleshopping once for each period of **45** minutes.

Amendment by Michl Ebner

Amendment 631

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 (Directive 89/552/EEC)

1 The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **35** minutes.

1. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **30** minutes.

Or. it

*Justification*

*Directive 89/52/EEC provides for programmes to be interrupted every 45 minutes (with certain exceptions). Reducing the interval to 30 minutes jeopardises the integrity of the works in question.*

Amendment by Zdzisław Zbigniew Podkański

Amendment 632

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **35** minutes.

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of **40** minutes.

No advertising or teleshopping may be inserted during religious services.

No advertising or teleshopping may be inserted during ***national ceremonies or*** religious services.

*Justification*

*To ensure protection of the status of audiovisual goods and their earning potential.*

Amendment by Ignasi Guardans Cambó

Amendment 633

ARTICLE 1, POINT 10

Article 11, paragraph 2 (Directive 89/552/EEC)

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes **and news programmes** may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

***No advertising or teleshopping may be inserted during religious services.***

2. The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes, ***provided that their scheduled duration exceeds 30 minutes***, may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

Or. en

*Justification*

*Better balance between the protection of certain programmes and improving the return on audiovisual works. Besides, there is no reason why EU legislation must protect these sort of programmes instead of others, such as concerts, for example, which may be also important for many citizens. This has to be left to Member States and, at the end of the day, to the market.*

Amendment by Hanna Foltyn-Kubicka

Amendment 634

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 2 (Directive 89/552/EEC)

No advertising or teleshopping may be inserted during religious services.

No advertising or teleshopping may be inserted during ***national celebrations or*** religious services.

Or. pl

Amendment by Mario Mauro

Amendment 635

ARTICLE 1, POINT 10

Article 11, paragraph 2, subparagraph 1 (Directive 89/552/EEC)

(2) The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

(2) The transmission of films made for television (excluding series, serials, light entertainment programmes and documentaries), cinematographic works, **religious programmes**, children's programmes and news programmes may be interrupted by advertising and/or teleshopping once for each period of 35 minutes.

Or. it

*Justification*

*The text of the existing directive should be reinserted in view of the nature of such programmes, which requires continuous transmission.*

Amendment by Jean-Luc Bennahmias, Carl Schlyter

Amendment 636

ARTICLE 1, POINT 10

Article 11, paragraph 2 a (new) (Directive 89/552/EEC)

***2a. The transmission of audiovisual works such as feature films and films made for television (excluding series, serials, light entertainment programmes and documentaries), provided their scheduled duration exceeds 45 minutes, may be interrupted once for each period of 45 minutes. A further interruption shall be allowed if their scheduled duration is at least 20 minutes longer than two or more complete periods of 45 minutes.***

Or. en

*Justification*

*To protect the integrity of European works and to safeguard cultural diversity, it is necessary to avoid too much commercials during the transmission of audiovisual works.*

Amendment by Carl Schlyter

Amendment 637

ARTICLE 1, POINT 11 A (new)

Article 14, paragraph 1 (Directive 89/552/EEC)

***(11a) Article 14(1) is replaced by the following:***

***'1. Television advertising for medicinal products and medical treatment shall be prohibited.'***

Or. fr

*Justification*

*The current restriction on advertising for medicinal products and medical treatment only applies in the case where they are only available on prescription.*

Amendment by Ignasi Guardans Cambó

Amendment 638

ARTICLE 1, POINT 11 A (new)

Article 15, paragraph 1 a (new) (Directive 89/552/EEC)

***(11a) The following new paragraph 1a is added to Article 15 :***

***2. Audiovisual commercial communications for alcoholic beverages shall not be broadcast between 6:00am and 9:00pm.***

Or. en

*Justification*

*Alcohol is responsible for 7.4% of all ill-health and premature death in the European Union. It is the third leading risk factor after high blood pressure and tobacco and a cause of over 25% of male deaths in the age group 15-29 years. An estimated 23 million Europeans are dependent on alcohol in any one year. Advertisements have a particular impact in promoting*



*a more positive attitude to drinking amongst young people.*

*A 6.00am-9.00pm watershed offers a practical, easy to implement and to monitor tool to protecting public health.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 639  
ARTICLE 1, POINT 13  
Article 18, paragraph -1 (new) (Directive 89/552/EEC)

***(-1) The proportion of transmission time devoting to all forms of advertising and teleshopping spots, with the exception of teleshopping windows within the meaning of paragraph 4, shall not exceed 20% of the daily transmission time.***

Or. it

*Justification*

*The amendment seeks to replace the text proposed by the Commission by the text of the existing directive in order to avoid removing limits on the daily volume of advertising.*

*1. In the first paragraph, the existing daily limit, which the Commission would repeal by its proposal of December 2005, is reinstated.*

*2. In the second paragraph, the limit per hour is maintained, but the scope of that limitation is extended (in contrast to the existing directive) to all forms of advertising.*

*3. In the third paragraph, self-promotional material is excluded when calculating ceilings for the volume of advertising carried.*

*4. In the fourth paragraph, we seek to reinstate the time limit on 'teleshopping windows' which is laid down in Article 18a of the existing directive but has been excised from the Commission proposal, and which seems (at three hours per day) to be generous enough already .*

Amendment by Henri Weber, Giovanni Berlinguer

Amendment 640

ARTICLE 1, POINT 13

Article 18, paragraph 1 (new) (Directive 89/552/EEC)

***1. The proportion of transmission time devoted to teleshopping spots, advertising spots and other forms of advertising, with the exception of teleshopping windows within the meaning of Article 18a, shall not exceed 20% of the daily transmission time. The transmission time for advertising spots shall not exceed 15% of the daily transmission time.***

Or. fr

*Justification*

*For linear services the daily average advertising limit contained in the current directive should remain. This limit is not superfluous as, in markets where a single private operator enjoys a dominant position and the advertising supply of that operator is less than demand from advertisers, any relaxing of the duration of advertising would lead to a transfer of advertising resources from public channels and specialist channels, and even from the written press, to private channels. Furthermore, in the interests of ease of viewing, non-linear services should at least be subject to an hourly limit on advertising time.*

*Consequently, an Article 3i should be introduced incorporating the terms of the new Article 18a, with the exception of the reference to 'product placement', henceforth prohibited in accordance with paragraph 2, and to replace the new Article 18 with Article 18(1) of the directive.*

Amendment by Marielle De Sarnez, Claire Gibault

Amendment 641

ARTICLE 1, POINT 13

Article 18, paragraph 1(Directive 89/552/EEC)

***1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%. *deleted****

Or. fr

*Justification*

*Article 18 of the amended directive from 1997 (97/36/EC) satisfactorily regulates transmission time devoted to advertising.*

Amendment by Jorgo Chatzimarkakis

Amendment 642  
ARTICLE 1, POINT 13  
Article 18, paragraph 1(Directive 89/552/EEC)

***1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%..*** ***deleted***

Or. de

*Justification*

*Quantitative restrictions on advertising are not a justifiable means of managing programme content.*

Amendment by Christopher Heaton-Harris

Amendment 643  
ARTICLE 1, POINT 13  
Article 18, paragraph 1 (Directive 89/552/EEC)

***1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.*** ***deleted.***

Or. en

*Justification*

*Restrictions on advertising should be lifted to allow European media service providers to better compete and to sustain revenue in order to finance and invest in European audiovisual content.*

*The consumer is the best regulator of the amount and type of advertising.*

Amendment by Luis Herrero-Tejedor

Amendment 644

ARTICLE 1, POINT 13

Article 18, paragraph 1 (Directive 89/552/EEC)

1. The proportion of *short forms of advertising such as* advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

1. The proportion of advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

Or. es

*Justification*

*Strict rules on the duration of advertising are not justified at a time when the audiovisual sector offers a wide variety of channels and services where users are able to choose their preferences using a remote control. In addition, audiovisual media service providers require greater flexibility in order to invest in quality programming.*

Amendment by Karin Resetarits

Amendment 645

ARTICLE 1, POINT 13

Article 18, paragraph 1(Directive 89/552/EEC)

1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall ***in no circumstances*** exceed ***a daily average of 20%***.

Amendment by Sarah Ludford

Amendment 646

ARTICLE 1, POINT 13

Article 18, paragraph 1(Directive 89/552/EEC)

1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

1. The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not ***on average*** exceed 20% ***and shall in no circumstances exceed 25%***.

Or. en

*Justification*

*There should be sufficient flexibility in advertising rules to respond to scheduling demands, given that market forces and consumer acceptability are the ultimate restraints on broadcasters.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi, Lilli Gruber

Amendment 647

ARTICLE 1, POINT 13

Article 18, paragraph 1 (Directive 89/552/EEC)

**(1)** The proportion of *short* forms of advertising ***such as advertising spots*** and teleshopping spots within a given clock hour shall not exceed 20%.

**(2)** The proportion of ***all*** forms of advertising and teleshopping spots within a given clock hour shall not exceed 20%.

Or. it

*Justification*

*The amendment seeks to replace the text proposed by the Commission by the text of the existing directive in order to avoid removing limits on the daily volume of advertising.*

*1. In the first paragraph, the existing daily limit, which the Commission would repeal by its proposal of December 2005, is reinstated.*

*2. In the second paragraph, the limit per hour is maintained, but the scope of that limitation is extended (in contrast to the existing directive) to all forms of advertising.*

*3. In the third paragraph, self-promotional material is excluded when calculating ceilings for the volume of advertising carried.*

*4. In the fourth paragraph, we seek to reinstate the time limit on 'teleshopping windows' which is laid down in Article 18a of the existing directive but has been excised from the Commission proposal, and which seems (at three hours per day) to be generous enough already..*

Amendment by Henri Weber, Giovanni Berlinguer

Amendment 648

ARTICLE 1, POINT 13

Article 18, paragraph 1 (Directive 89/552/EEC)

**1.** The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

**2.** The proportion of short forms of advertising such as advertising spots and teleshopping spots within a given clock hour shall not exceed 20%.

Amendment by Michl Ebner

Amendment 649

ARTICLE 1, POINT 13

Article 18, paragraph 1 a (new) (Directive 89/552/EEC)

***1a. In any given clock hour, the maximum number of audiovisual commercial communication windows accompanying audiovisual media services shall not exceed a maximum of three; the maximum duration of each such window shall be 12 seconds.***

Or. it

*Justification*

*Commercial communications windows must also be subject to time limits.*

Amendment by Åsa Westlund

Amendment 650

ARTICLE 1, POINT 13

Article 18, paragraph 1 a (new) (Directive 89/552/EEC)

***1a. The number of blocks of short forms of advertising may not exceed three in any one clock hour.***

Or. sv

*Justification*

*Without this addition to paragraph 1, the permitted 12 minutes of advertising per hour could be divided up into (for example) 24 separate 30-second advertising insertions, which is hardly a desirable situation for consumers. However, the now deleted rule requiring 20 minutes between advertising insertions was unnecessarily strict and often resulted in programmes being interrupted at inappropriate points so as to maximise the number of commercial breaks in a programme. This amendment gives broadcasters the opportunity to insert blocks of short forms of advertising where they consider it appropriate, without at the same time increasing the number of permitted advertising blocks per hour. This also ensures that serious broadcasters which want to supply content without constant interruptions can do so without ending up in a worse competitive position or in a "race to the bottom" with less scrupulous competitors who compromise the integrity of the content in order to sell attractive "first spots" in an advertising block.*

Amendment by Marielle De Sarnez, Claire Gibault

Amendment 651  
ARTICLE 1, POINT 13  
Article 18, paragraph 2(Directive 89/552/EEC)

***2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placement.*** *deleted*

Or. fr

*Justification*

*Article 18 of the amended directive from 1997 (97/36/EC) satisfactorily regulates transmission time devoted to advertising.*

Amendment by Jorgo Chatzimarkakis

Amendment 652  
ARTICLE 1, POINT 13  
Article 18, paragraph 2 (Directive 89/552/EEC)

***2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placement.*** *deleted*

Or. de

*Justification*

*Quantitative restrictions on advertising are not a justifiable means of managing programme content.*

Amendment by Christopher Heaton-Harris

Amendment 653  
ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/EEC)

**2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placement.** *deleted*

Or. en

*Justification*

*Restrictions on advertising should be lifted to allow European media service providers to better compete and to sustain revenue in order to finance and invest in European audiovisual content.*

*The consumer is the best regulator of the amount and type of advertising.*

Amendment by Hanna Foltyn-Kubicka

Amendment 654

ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/EEC)

**2. Paragraph 1 does not apply to announcements made by the broadcaster *in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placement.***

**2. Paragraph 1 does not apply to announcements made by the broadcaster *advertising its own programmes and teleshopping.***

Or. pl

*Justification*

*Leaving loopholes allowing broadcasters to advertise products derived from their own programmes, as well as sponsorship announcements and product placement considerably weakens the restrictions introduced and could offer an easy means of side-stepping them.*

Amendment by Luis Herrero-Tejedor

Amendment 655

ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/EEC)



2. Paragraph 1 does not apply to **announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes**, sponsorship announcements and product placement.

2. Paragraph 1 does not apply to **any other form of advertising including** sponsorship announcements and product placement.

Or. es

*Justification*

*Strict rules on the duration of advertising are not justified at a time when the audiovisual sector offers a wide variety of channels and services where users are able to choose their preferences using a remote control. In addition, audiovisual media service providers require greater flexibility in order to invest in quality programming.*

Amendment by Miguel Portas and Věra Flasarová

Amendment 656

ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/EEC)

2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and **ancillary products directly derived from those programmes, sponsorship announcements and product placement.**”

2. Paragraph 1 does not apply to announcements made by the broadcaster in connection with its own programmes and **product placement. Advertising for ancillary products directly derived from the programmes and sponsorship announcements must be considered within the maximum of 20% per hour of advertising time.**”

Or. en

*Justification*

*Selling products is a normal commercial activity, even if referring to TV programmes ancillary products, so its advertising should be considered under the 20% per hour of advertising time. Sponsorship announcements are also to be considered under the 20% per hour, otherwise there will be no real limit for how long sponsorship announcements can last, both the announcement for each sponsor and the successive announcements of sponsorship, leading to the possibility of trading this supplementary and unlimited advertising time outside the 20% limit against the spirit of the Directive.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi and Lilli

Gruber

Amendment 657

ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/EEC)

**(2) Paragraph 1** does not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements **and product placement**.

**(3) The foregoing paragraphs shall** not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes **or to** sponsorship announcements.

Or. it

*Justification*

*The amendment seeks to replace the text proposed by the Commission by the text of the existing directive in order to avoid removing limits on the daily volume of advertising.*

- 1. In the first paragraph, the existing daily limit, which the Commission would repeal by its proposal of December 2005, is reinstated.*
- 2. In the second paragraph, the limit per hour is maintained, but the scope of that limitation is extended (in contrast to the existing directive) to all forms of advertising.*
- 3. In the third paragraph, self-promotional material is excluded when calculating ceilings for the volume of advertising carried.*
- 4. In the fourth paragraph, we seek to reinstate the time limit on 'teleshopping windows' which is laid down in Article 18a of the existing directive but has been excised from the Commission proposal, and which seems (at three hours per day) to be generous enough already.*

Amendment by Henri Weber and Giovanni Berlinguer

Amendment 658

ARTICLE 1, POINT 13

Article 18, paragraph 2 (Directive 89/552/EEC)

**2. Paragraph 1** does not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements **and product placement**.

**3. Paragraph 2** does not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes **and** sponsorship announcements.

Or. fr

### *Justification*

*For linear services the daily average advertising limit contained in the current directive should remain. This limit is not superfluous as, in markets where a single private operator enjoys a dominant position and the advertising supply of that operator is less than demand from advertisers, any relaxing of the duration of advertising would lead to a transfer of advertising resources from public channels and specialist channels, and even from the written press, to private channels. Furthermore, in the interests of ease of viewing, non-linear services should at least be subject to an hourly limit on advertising time.*

*Consequently, an Article 3i should be introduced incorporating the terms of the new Article 18a, with the exception of the reference to 'product placement', henceforth prohibited in accordance with paragraph 2, and to replace the new Article 18 with Article 18(1) of the directive.*

Amendment by Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi and Lilli Gruber

Amendment 659

ARTICLE 1, POINT 13

Article 18, paragraph 2 a (new) (Directive 89/552/EEC)

***2a. Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes and their overall duration shall not exceed three hours per day.***

Or. it

### *Justification*

*The amendment seeks to replace the text proposed by the Commission by the text of the existing directive in order to avoid removing limits on the daily volume of advertising.*

- 1. In the first paragraph, the existing daily limit, which the Commission would repeal by its proposal of December 2005, is reinstated.*
- 2. In the second paragraph, the limit per hour is maintained, but the scope of that limitation is extended (in contrast to the existing directive) to all forms of advertising.*
- 3. In the third paragraph, self-promotional material is excluded when calculating ceilings for the volume of advertising carried.*
- 4. In the fourth paragraph, we seek to reinstate the time limit on 'teleshopping windows' which is laid down in Article 18a of the existing directive but has been excised from the Commission proposal, and which seems (at three hours per day) to be generous enough already.*

Amendment by Henri Weber and Giovanni Berlinguer

Amendment 660  
ARTICLE 1, POINT 14  
Article 18a (Directive 89/552/EEC)

(14) Article 18a is *deleted*.

(14) Article 18a is *replaced by the following*:

*‘Article 18a*

*(1) Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes.*

*(2) The maximum number of windows per day shall be eight. Their overall duration shall not exceed three hours per day. They must be clearly identified as teleshopping windows by optical and acoustic means.’*

Or. fr

*Justification*

*Article 18a of the directive should not be deleted because that could have the effect of allowing channels not exclusively devoted to teleshopping to avoid any quantity restrictions in terms of frequency and duration, which would be detrimental in terms of ease of viewing.*

Amendment by Helga Trüpel

Amendment 661  
ARTICLE 1, POINT 14  
Article 18a (Directive 89/552/EEC)

*Article 18a is deleted*

*Audiovisual commercial communication windows must be clearly identified by optical and acoustic means and their overall duration shall not exceed six hours per day.*

Or. en

*Justification*

*To protect viewers from too much audiovisual commercial communication windows and to give the teleshopping industry legal certainty a time framework for these windows should be reintroduced. Competence to determine the time in which an audiovisual media service may be disseminated.*

Amendment by Ignasi Guardans Cambó

Amendment 662  
ARTICLE 1, POINT 14  
Article 18a (Directive 89/552/EEC)

*Article 18a is deleted*

***Audiovisual commercial communication windows such as teleshopping and telepromotions shall be clearly identified as such by optical and acoustic means and their overall duration shall not exceed six hours per day.***

Or. en

*Justification*

*The total removal of daily limits for Teleshopping Windows as is stated in the European Commission proposal by deleting article 18.a. could raise some considerable risks and does not contribute to any particular objective of the Directive. More importantly, this complete release and the overstock of media time for Teleshopping Windows, will allow questionable players, and rogue traders to take advantage of this opening, thus impacting the positive results already accomplished by the industry through robust self-regulation programmes and the continuous promotion of the highest standards. Overall this measure could undermine the efforts of the Teleshopping industry in Europe to create the highest standards for consumers.*

Amendment by Miguel Portas and Věra Flasarová

Amendment 663  
ARTICLE 1, POINT 15  
Article 19, paragraph 1 a (new) (Directive 89/552/EEC)

***Article 18 shall apply to public service enterprises but shall not apply to commercial television broadcasters.”***

Or. en

## *Justification*

*Regarding audiovisual commercial communication, all broadcasters must be submitted to strict qualitative rules as laid down in this Directive, namely the respect for the integrity of cinematographic works, films and other programmes. It is not the case for quantitative rules. If a private owned commercial television broadcaster wishes to have 10 hours of advertising between two films or other programmes, it should be accepted as its own decision.*

*Indeed, audiovisual commercial communication is the main purpose (and main source of income) of a commercial advertising television, although it also may inform, entertain and educate, and tries to do this in a way that attracts and does not alienate its advertising audience.*

*It is not the case for public service television enterprises, whose main purpose is to inform, entertain and educate (which they have obligation to do with high quality) although they may also broadcast audiovisual commercial communication as a secondary activity (and secondary source of income) and tries to do this in a way that does not alienate its information, entertainment and education audience.*

Amendment by Giovanni Berlinguer, Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi and Lilli Gruber

Amendment 664

ARTICLE 1, POINT 17

Article 20 a (new) (Directive 89/552/EEC)

### *Article 20a*

***1. In order to guarantee the principles of pluralism, competition and business freedom in advertising revenue, the activity of drawing up viewing figures should meet with the following criteria:***

***(a) the bodies carrying out surveys on audience, quality, popularity and broadcasting ratings of the various media must be independent of all the entities surveyed;***

***(b) the representative nature of the management bodies (technical-scientific committees and/or monitoring committees): they must include representatives of all the entities involved and surveyed (operators, market and consumers) and not be confined to the broadcasting platforms;***

***(c) transparency of the technical committees, to which real powers must be assigned as regards the survey, without any interference - either technical or managerial - from the board of directors.***

Amendment by Marielle De Sarnez

Amendment 665  
ARTICLE 1, POINT 18  
Article 22 a and b (Directive 89/552/EEC)

**(18) Articles 22a and 22b are deleted. deleted**

Or. fr

*Justification*

*Articles 22a and 22b of the current Directive 89/552/EC concerning, in particular, an investigation by the Commission into possible technical measures aimed at facilitating parental control over the programmes watched by minors (filter devices, appropriate rating systems, etc.) should remain in force.*

Amendment by Mario Mauro

Amendment 666  
ARTICLE 1, POINT 18  
Article 22 a (new) (Directive 89/552/EEC)

*Article 22a*

***(1) Member States shall promote the production and programming of audiovisual media services and programmes which are suitable for minors and intended to improve their knowledge of communications media.***

***(2) The measures shall seek to facilitate educational action by parents, teachers and educators to create awareness of the effects of programmes that minors may watch by:***

- setting up appropriate rating systems;***
- encouraging policies to raise awareness and knowledge of the media, which should include the participation of educational establishments and make it possible to produce European programmes suitable for family viewing or aimed at children and***

*adolescents;*

*- taking account of experience gained in this field in Europe or elsewhere and of the opinion of interested parties, such as broadcasters, producers, parents, educators, communications experts and associations concerned.*

*(3) The Member States' respective legislation must also stipulate that new television sets are equipped with technical devices to enable certain programmes to be filtered out.*

Or. it

*Justification*

*The amendment seeks to define more precisely the measures that need to be taken to protect minors and assess the content of audiovisual media services.*

*The protection extended by the law to minors, to human dignity, to the rights of children and to the rights of parents and the family should be carried into effect by producing and transmitting a sufficient amount of programmes suitable for children, adolescents and family viewing, and by media awareness programmes.*

Amendment by Luis Herrero-Tejedor

Amendment 667

ARTICLE 1, POINT 20

Article 23 b, paragraph -1 (new) (Directive 89/552/EEC)

***(-1) The effective protection of fundamental rights and freedoms is a direct matter for the judges and the courts. It follows that an audiovisual company cannot be closed down, nor can its broadcasts be suspended or limited, without a court order.***

Or. es

*Justification*

*The protection of fundamental principles is a matter for the judges and the courts alone and this is therefore not a function for the national regulatory bodies. The Directive must ensure that those bodies do not exceed their expressly permitted powers and do not undermine the*



*rights recognised in the Charter of Fundamental Rights and the European Convention on Human Rights. The more prestigious press organs have, where made aware of undesirable conduct in this connection, specifically asked for assurances that the punitive powers of the regulatory authorities should not affect the habitual exercise of the fundamental right of freedom of expression. Only the courts can determine whether a communications medium must be punished for infringement of fundamental rights by having its broadcasts stopped.*

Amendment by Michl Ebner

Amendment 668

ARTICLE 1, POINT 20

Article 23 b, paragraph 1 (Directive 89/552/EEC)

***1. Member States shall guarantee the independence of national regulatory authorities and ensure that they exercise their powers impartially and transparently.*** *deleted*

Or. de

#### *Justification*

*The legal supervision of TV and other media takes differing forms in the different Member States. The Commission has not shown up any deficit in the internal market which would justify a change in tried and tested supervisory structures. In accordance with the subsidiarity principle, issues of jurisdiction must therefore remain within the regulatory sphere of the Member States. Moreover, the broad degree of freedom from content control by supervisory authorities, and its replacement by ex-post answerability to general laws and independent courts, is widely recognised as a central element of the freedom of the press and of expression which European societies have fought to achieve over the centuries. It is therefore inappropriate to extend the institution of media supervisory authorities, which were devised for the special case of broadcasting, to areas outside that of broadcasting. Even for broadcasting, however, regulatory authorities as an institution should not be mandatory at a time when frequencies are in short supply. Using European law to give the independence of a supervisory authority precedence over the constitutions of the Member States is problematic in any case, since it constitutes an interference in the state organisation of the Member States and infringes the principle of democracy.*

Amendment by Henri Weber

Amendment 669

ARTICLE 1, POINT 20

Article 23 b, paragraph 1 (Directive 89/552/EEC)

1. Member States shall **guarantee the independence of national regulatory authorities and ensure that they exercise their powers impartially and transparently.**

1. Member States shall **ensure the existence or creation of** regulatory authorities **and shall guarantee, in accordance with their national law, their independence from political, economic and financial circles. They shall ensure that their power is exercised with complete impartiality and that their operating methods are fully transparent. These regulatory authorities may also have the task of ensuring that the provisions of this Directive are observed, in particular those relating to freedom of expression, media pluralism, human dignity, non-discrimination and protection of minors and vulnerable or disabled persons.**

Or. fr

*Justification*

*Specifies the role, independence and tasks of regulatory authorities.*

Amendment by Ignasi Guardans Cambó

Amendment 670

ARTICLE 1, POINT 20

Article 23 b, paragraph 1 (Directive 89/552/EEC)

1. Member States shall **guarantee the independence of** national regulatory **authorities** and ensure that they exercise their powers impartially and transparently.

1. Member States shall **set up** national regulatory **bodies in accordance with national law, guarantee their independence,** and ensure that they exercise their powers impartially and transparently.

Or. en

*Justification*

*It cannot be an option left to the Member states to decide whether to have or not an*

*independent regulatory authority. It is in the essential interest of the European Union in this matter, and it is in coherence with the basic goals of this Directive, to require all Member states to set up an impartial audiovisual national authority.*

Amendment by Luis Herrero-Tejedor

Amendment 671

ARTICLE 1, POINT 20

Article 23 b, paragraph -1 (Directive 89/552/EEC)

**(1)** Member States shall guarantee the independence of national regulatory **authorities** and ensure that they exercise their powers impartially and transparently.

**(2)** Member States shall guarantee **under national law** the independence of national regulatory **bodies** and ensure that they exercise their powers impartially and transparently.

Or. es

*Justification*

*The protection of fundamental principles is a matter for the judges and the courts alone and this is therefore not a function for the national regulatory bodies. The Directive must ensure that those bodies do not exceed their expressly permitted powers and do not undermine the rights recognised in the Charter of Fundamental Rights and the European Convention on Human Rights. The more prestigious press organs have, where made aware of undesirable conduct in this connection, specifically asked for assurances that the punitive powers of the regulatory authorities should not affect the habitual exercise of the fundamental right of freedom of expression. Only the courts can determine whether a communications medium must be punished for infringement of fundamental rights by having its broadcasts stopped.*

Amendment by Ignasi Guardans Cambó

Amendment 672

ARTICLE 1, POINT 20

Article 23 b, paragraph 1 a (new) (Directive 89/552/EEC)

***1a. Member States shall entrust such regulatory authorities with the task of ensuring that audiovisual media service providers comply with the provisions of this Directive, in particular those relating to freedom of expression, pluralism of the media, human dignity, the principle of non-discrimination and the protection of minors, the vulnerable and the disabled.***

*Justification*

*The Commission seeks in its proposal to encourage Member States to guarantee the independence of the regulatory authorities, which are responsible among other things for ensuring that the Directive is implemented in accordance with the principles it enshrines. However, it should be flanked with a requirement for Member States that have not already done so to establish such authorities, which play a fundamental role in the protection of public health, freedoms, minors, and human dignity, and this for all audiovisual media services.*

Amendment by Michl Ebner

Amendment 673

ARTICLE 1, POINT 20

Article 23 b, paragraph 2 (Directive 89/552/EEC)

***2. National regulatory authorities shall provide each other and the Commission with the information necessary for the application of the provisions of this Directive*** ***deleted***

*Justification*

*The legal supervision of TV and other media takes differing forms in the different Member States. The Commission has not shown up any deficit in the internal market which would justify a change in tried and tested supervisory structures. In accordance with the subsidiarity principle, issues of jurisdiction must therefore remain within the regulatory sphere of the Member States. Moreover, the broad degree of freedom from content control by supervisory authorities, and its replacement by ex-post answerability to general laws and independent courts, is widely recognised as a central element of the freedom of the press and of expression which European societies have fought to achieve over the centuries. It is therefore inappropriate to extend the institution of media supervisory authorities, which were devised for the special case of broadcasting, to areas outside that of broadcasting. Even for broadcasting, however, regulatory authorities as an institution should not be mandatory at a time when frequencies are in short supply. Using European law to give the independence of a supervisory authority precedence over the constitutions of the Member States is problematic in any case, since it constitutes an interference in the state organisation of the Member States and infringes the principle of democracy.*

Amendment by Luis Herrero-Tejedor

Amendment 674

ARTICLE 1, POINT 20

Article 23 b, paragraph -2 (Directive 89/552/EEC)

(2) National regulatory **authorities** shall provide each other and the Commission with the information necessary for the application of the provisions of this Directive.

(3) National regulatory **bodies** shall provide each other and the Commission with the information necessary for the application of the provisions of this Directive. **The national regulatory bodies shall step up their cooperation, particularly as regards settling problems under Article 2(7) of the directive.**

Or. es

*Justification*

*The protection of fundamental principles is a matter for the judges and the courts alone and this is therefore not a function for the national regulatory bodies. The Directive must ensure that those bodies do not exceed their expressly permitted powers and do not undermine the rights recognised in the Charter of Fundamental Rights and the European Convention on Human Rights. The more prestigious press organs have, where made aware of undesirable conduct in this connection, specifically asked for assurances that the punitive powers of the regulatory authorities should not affect the habitual exercise of the fundamental right of freedom of expression. Only the courts can determine whether a communications medium must be punished for infringement of fundamental rights by having its broadcasts stopped.*

Amendment by Rihards Pīks

Amendment 675

ARTICLE 1, POINT 20

Article 23 b, paragraph 2 (Directive 89/552/EEC)

2. National regulatory authorities shall provide each other and the Commission with the information necessary for the application of the provisions of this Directive.

2. National regulatory authorities shall provide each other and the Commission with the information necessary for the application of the provisions (**and the prevention of abuse or fraudulent conduct**) of this Directive.

Or. en

*Justification*

*It is particularly important to broaden and strengthen the co-operation between the relevant*

*regulatory authorities and the Commission as regards information exchange, specifically, in order to prevent abuses or fraudulent conduct and to avoid possible conflicts due to differences of legal regulation in different jurisdictions.*

Amendment by Marianne Mikko

Amendment 676

ARTICLE 1, POINT 20

Article 23 b, paragraph 2 a (new) (Directive 89/552/EEC)

***2a. The national regulatory authority of a Member State shall consult the regulatory authority of another Member State before granting a licence to or authorising a broadcaster or audiovisual media service provider whose programme service is wholly or mainly directed at the audience of that other Member State. The Member State at which the service is directed shall have the right to make proposals to the national regulatory authority of the other Member State in order to avoid circumvention of its national rules by the broadcaster under the jurisdiction of that other Member State.***

Or. en

*Justification*

*To prevent location-shopping directed to undermining the rules of another MS.*

Amendment by Rihards Pīks

Amendment 677

ARTICLE 1, POINT 20

Article 23 b, paragraph 2 a (new) (Directive 89/552/EEC)

***2a. The national regulatory authority of a Member State shall consult the regulatory authority of another Member State prior to issuing an authorisation or a licence to a broadcaster whose programme service is to be wholly or mainly directed at the audience of that other Member State.***

*Justification*

*The aim of this proposal is to maximise co-operation and minimise disputes by obliging Member States' authorities responsible for issuing licences, authorisations or concluding contracts with audiovisual media service providers in those cases where the programmes of a service provider established in one Member State are to be wholly or principally directed at the territory/territories of another/other Member States to consult with the relevant authorities in the target Member State(s) before such licences are issued. Ex-ante consultation can play an important role in reducing conflicts and the number of expensive court cases that might have been avoided. Also, Member States should take into consideration the public policies of other Member States. This is especially important where delocalisation can give unfair advantage to audiovisual media service providers established in one Member State but targeting the audience of another Member State where there are stricter regulations. This situation can cause market distortions.*

Amendment by Giovanni Berlinguer, Giulietto Chiesa, Monica Frassoni, Donato Tommaso Veraldi and Lilli Gruber

Amendment 678

ARTICLE 1, POINT 20 A (new)

Article 23 c (new) (Directive 89/552/EEC)

*Article 23c*

***(1) The Member States shall adopt the measures needed to ensure pluralism of information in the radio and television broadcasting system. The Member States shall in particular ban the creation and retention of dominant positions on the television market and related markets.***

***(2) The Member States shall prohibit holders of government office, their spouses or first or second degree relatives, as well as companies controlled by them, from taking up or maintaining positions of control in businesses operating in the radio and television market and related markets.***

Or. it

*Justification*

*The amendment inserts a new article in the 'television without frontiers' directive. The aim is to require Member States to comply with general principles relating to the protection of*

*pluralism and prohibitions on combining the holding of government office with controlling radio and television companies. The amendment follows on from the positions already taken on several occasions by the European Parliament, such as the resolution of 22 April 2004 on the risk of infringement in the EU (and Italy in particular) of freedom of expression and information, paragraph 12 of the resolution of 27 April 2006 on digital broadcasting, and the request (which the Commission did not take on board in its proposal on the amendment of the television without frontiers directive) to adopt rules to harmonise national legislation on the protection of fundamental rights in broadcasting, so as to ensure the smooth working of the common market. (For example, paragraph 78 of the resolution of 22 April 2004 states that the European Parliament 'considers that legal instruments should be introduced to prevent any conflict of interest; calls on the Commission to submit proposals to ensure that members of government are not able to use their media interests for political purposes'. It is glaringly obvious that existing disparities between national bodies of legislation concerning, for example, 'conflicts of interest' and the criteria to be used to establish the importance of individual operators in the television broadcasting market make it more difficult to exercise freedom of establishment and the freedom to provide services in the Community, which have an adverse effect on the working of the internal market.*