

CONSULTATION on Directive 2010/13/EU on audiovisual media services (AVMSD) - A media framework for the 21st century

DIGITALEUROPE's response | 28 September 2015

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- Non-governmental organisation
- Small or medium-sized business
- Micro-business
- Commercial broadcasters & thematic channels
- Pay TV aggregators
- Free and pay VOD operators
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- European-level representative platform or association
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Rue de la Science 14, 1040 Brussels

Tel. : +32 2 609 53 10

Email : info@digitaleurope.org

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Background and objectives

The Audiovisual Media Services Directive (AVMSD¹) has paved the way towards a single European market for audiovisual media services. It has harmonised the audiovisual rules of the Member States and facilitated the provision of audiovisual media services across the EU on the basis of the country of origin principle.

Since its adoption in 2007, the audiovisual media landscape has changed significantly due to media convergence². The review of the AVMSD is featured in the Commission Work Programme for 2015, as part of the Regulatory Fitness and Performance Programme (REFIT). In its Communication on a Digital Single Market

1 Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services. Hereinafter, "the AVMSD" or "the Directive".

2 <https://ec.europa.eu/digital-agenda/en/media-convergence>

Strategy for Europe³, the Commission announced that the AVMSD would be revised in 2016. Another REFIT exercise is being carried out, in parallel, in the field of telecoms with a view to come forward with proposals in 2016. Some of the issues treated in the current public consultation may have an impact on this parallel exercise and *vice versa*.

In 2013, the Commission adopted a Green Paper "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values"⁴ inviting stakeholders to share their views on the changing media landscape and its implications for the AVMSD.

On the basis of the outcome of this public consultation, the Commission has identified the following issues to be considered in the evaluation and review of the AVMSD:

1. Ensuring a level playing field for audiovisual media services;
2. Providing for an optimal level of consumer protection;
3. User protection and prohibition of hate speech and discrimination;
4. Promoting European audiovisual content;
5. Strengthening the single market;
6. Strengthening media freedom and pluralism, access to information and accessibility to content for people with disabilities.

You are asked to answer a number of questions revolving around these issues. Please reason your answers and possibly illustrate them with concrete examples and substantiate them with data. The policy options identified are not necessarily mutually exclusive, but may sometimes be combined. Please indicate your preferred policy options, if any, and feel free to provide any other comment that you deem useful.

3 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions, a Digital Single Market Strategy for Europe, COM (2015) 192 final, 6 May 2015.

4 Hereinafter, "The Green Paper" (<https://ec.europa.eu/digital-agenda/node/51287#green-paper---preparing-for-a-fully-converged-audi>)

QUESTIONS

1. *Ensuring a level playing field*

Services to which the AVMSD applies

The AVMSD regulates television broadcasts and on-demand services. It applies to programmes that are TV-like⁵ and for which providers have editorial responsibility⁶. The AVMSD does not apply to content hosted by online video-sharing platforms and intermediaries.

These platforms and intermediaries are regulated primarily by the e-Commerce Directive⁷, which exempts them from liability for the content they transmit, store or host, under certain conditions.

As a separate exercise, given the increasingly central role that online platforms and intermediaries (e.g. search engines, social media, e-commerce platforms, app stores, price comparison websites) play in the economy and society, the Commission Communication "A Digital Single Market Strategy for Europe" announces a comprehensive assessment of the role of platforms and of online intermediaries to be launched at the end of 2015.

SET OF QUESTIONS 1.1

Are the provisions on the services to which the Directive applies (television broadcasting and on-demand services) still relevant⁸, effective⁹ and fair¹⁰?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

5 Recital 24 of the AVMSD: "It is characteristic of on-demand audiovisual media services that they are 'television-like', i.e. that they compete for the same audience as television broadcasts, and the nature and the means of access to the service would lead the user reasonably to expect regulatory protection within the scope of this Directive. In the light of this and in order to prevent disparities as regards free movement and competition, the concept of 'programme' should be interpreted in a dynamic way taking into account developments in television broadcasting."

6 Article 1(1)(a) of the AVMSD. The Audiovisual Media Services Directive applies only to services that qualify as audiovisual media services as defined in Article 1(1)(a). An audiovisual media service is "a service [...] which is under the **editorial responsibility** of a media service provider and the **principal purpose** of which is the provision of programmes, in order to inform, entertain or educate, to the general public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC". This definition covers primarily television broadcasts and on-demand audiovisual media services.

7 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')

8 Relevance looks at the relationship between the needs and problems in society and the objectives of the intervention.

9 Effectiveness analysis considers how successful EU action has been in achieving or progressing towards its objectives.

10 How fairly are the different effects distributed across the different stakeholders?

COMMENTS:

In our view, there is no need to revise the distinction between linear and non-linear services. This is due to the different immediacy of linear and non-linear content: when it comes to non-linear content, the user does proactively decide what content when to watch.

DIGITALEUROPE also wants to highlight that the regulatory approach taken by the EU to regulate different parts of the audiovisual value chain with different laws has been proven to be beneficial for the industry. Content providers such as the BBC, Arte or Le Monde exercise editorial control over their content shown on their websites, apps and video platforms. The ‘applications layer’, on the other hand, plays a fundamentally different role in that it merely provides tools and services which enable content providers to serve their content. The E-commerce directive (regulating the applications layer) and the AVMS Directive (regulating the content layer) are therefore complementary in the way they were designed at the time they were developed. Using the AVMSD to encroach the E-commerce Directive, or the other way round, could invariably lead to inconsistencies and unwanted consequences.

Furthermore, we also see the criterion of ‘editorial responsibility’ as still valid for the regulation of audiovisual content because it focuses on the market players who exercise control over content. It is still suitable to clearly distinguish them from other parts of the value chain such as device manufacturers, infrastructure providers, or intermediaries.

Therefore, in our view, the criteria within the AVMS-D should stay tied to the service and remain device agnostic because this technological neutrality leads to a regulation which is future proof. An eventual extension of the scope of the AVMS-D to specific technologies and/or online services other than Audiovisual Media services as defined in the AVMS-D would be alien to the system.

Additionally, the question remains whether the different regulatory systems applied to linear and non-linear – for TV like audio-visual content under editorial responsibility -are still justified and if an adaptation of the level of regulation should be established to create a level playing field for linear and non-linear services. The AVMS Directive correctly recognises that there is a balance between regulation of a service and the amount of control which the user can exercise over it – hence the proportionate approach for linear and non-linear services, which does not create an unlevel playing field. Moreover, any provider of linear content can, and often does, make it available as non-linear content. If anything, providers and linear content benefit from the considerable advantages that their brands, recognition and know-how give them and this helps them build their offer of non-linear services. In any event, a deregulation on the linear service side would be a preferable way forward.

Are you aware of issues (e.g. related to consumer protection or competitive disadvantage) due to the fact that certain audiovisual services are not regulated by the AVMSD?

YES – NO (If yes, please explain below)

COMMENTS:

Preferred policy option:

Maintaining the status quo

Issuing European Commission's guidance clarifying the scope of the AVMSD. No other changes to Union law would be foreseen.

Amending law(s) other than the AVMSD, notably the e-Commerce Directive. This option could be complemented by self and co-regulatory initiatives.

Amending the AVMSD, namely by extending all or some of its provisions for instance to providers offering audiovisual content which does not qualify as "TV-like" or to providers hosting user-generated content.

Other option (please describe)

PLEASE EXPLAIN YOUR CHOICE:

DIGITALEUROPE agrees that the current scope of the AVMS-D is appropriate. Market developments are not showing any signs of distortion but rather of disruption - which is positive for the end-user as it allows more choice, competition, new entrants, and innovative services.

Convergence, connected devices and digital services drive consumer satisfaction. Consumers' media usage continues to grow at a four percent rate annually across a majority of EU Member States¹¹. A recent study¹² found that of the approximately seven hours per day the average European consumer has available for activities other than work, meals, sleep and household chores, more than 60 per cent are spent consuming creative industry products (including TV, newspapers, etc.). The consumer surplus resulting from the provision of online media ranges from 1 557 Euros per consumer (Sweden) to 842 Euros (Ireland)¹³.

EU citizens have been accessing the Internet for many years and have been consuming services from providers that do not fall under the definition of the AVMS-D providers – including radio or news publishing content - over that time. This has not led to a deterioration of values.

Quite the opposite, online services have created a more open and level playing field. They allow anyone to reach out online: creators and traditional creative industries can reach a global audience, on multiple devices, in a much easier way than it was possible with limited analogue channels. New creators and entrepreneurs compete with traditional or legacy players, as they avail themselves of those opportunities.

Consumers and content producers are the beneficiaries of these developments. The market is very dynamic and provides users a wealth of choice. Many new European and global Internet services (e.g. Netflix, DailyMotion Vimeo, ClipFish, MyVideo) have created new user experiences on a wide range of devices. Many

¹¹ PWC, The digital Future of creative Europe

<http://www.strategyand.pwc.com/global/home/what-we-think/reports-white-papers/article-display/the-digital-future-creative-europe>

¹² ('The digital future of creative Europe').

¹³ (BCG, 'Follow the Surplus' (2013), available at

https://www.bcgperspectives.com/content/articles/media_entertainment_digital_economy_follow_surplus_european_consumers_embrace_online_media/)

broadcasters such as Arte or the BBC take advantage of these new opportunities with applications for connected devices.

In our view, the discussion regarding the responsibility of intermediaries and platforms extends beyond the scope of the AVMSD. Therefore potential issues should be dealt with in the context of the comprehensive assessment announced in the Digital Single Market Strategy, including a discussion on an EU-wide definition of intermediaries and platforms.

Geographical scope of AVMSD

The AVMSD applies to operators established in the EU. Operators established outside the EU but targeting EU audiences with their audiovisual media services (via, for instance, terrestrial broadcasting satellite broadcasting the Internet or other means) do not fall under the scope of the Directive¹⁴.

SET OF QUESTIONS 1.2

Are the provisions on the geographical scope of the Directive still relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Are you aware of issues (e.g. related to consumer protection problems or competitive disadvantage) caused by the current geographical scope of application of the AVMSD?

YES – NO (If yes, please explain below)

COMMENTS:

DIGITALEUROPE considers that an extension of the geographical scope of the AVMS-D endangers choice and pluralism in Europe. Socially valuable content such as news, provided from a different country and culture, would be less available in the EU, as providers may choose not to serve the EU market anymore. At the same time, products, devices or services that even partly fall into the material scope of AVMS (i.e. if a provider of content uses these devices to distribute its content) would become subject to new regulatory rules applicable only in the EU. This would subject companies to multiple, potentially conflicting requirements, slow down the roll out of such products in the EU, and disincentivise companies to innovate in new products and services. Further, more specific regulatory requirements to

¹⁴ Article 2(1) AVMSD – "Each Member State shall ensure that all audiovisual media services transmitted by media service providers **under its jurisdiction** comply with the rules of the system of law applicable to audiovisual media services intended for the public in that Member State." (emphasis added)

provision these services would force providers to reconsider whether they can afford to re-purpose and offer their services to an EU audience. This could particularly become an issue for smaller providers who, as a whole, significantly contribute to the diversity of offered services.

Extra-territorial application of EU rules would be difficult to enforce (including if they conflict with other rules) and this would undermine the overall effectiveness of the Directive. The discussion on other legislative files can be helpful in that respect: in the draft General Data Protection Regulation for instance, the Council recently clarified that the mere accessibility of a website in the EU or the use of a language generally used in a country where a controller is established are insufficient to ascertain the applicability of law and jurisdiction.

Preferred policy option:

Maintaining the status quo

Extending the scope of application of the Directive to providers of audiovisual media services established outside the EU that are targeting EU audiences.

This could be done, for example, by requiring these providers to register or designate a representative in one Member State (for instance, the main target country). The rules of the Member State of registration or representation would apply.

Extending the scope of application of the Directive to audiovisual media services established outside the EU that are targeting EU audiences and whose presence in the EU is significant in terms of market share/turnover.

As for option b), this could be done, for example, by requiring these providers to register or designate a representative in one Member State (for instance, the main target country). The rules of the Member State of registration or representation would apply.

d) *Other option (please describe)*

PLEASE EXPLAIN YOUR CHOICE:

The Internet has abolished the barriers for digital content and services to be available at global level. The drafting and implementation of the AVMS-D manages to strike the right balance to allow Europeans to benefit from a very diverse source and variety of audiovisual content both in the meaning of the AVMS-D and beyond (e.g. user generated content) – irrespective of the origin of such content.

Any change in the scope of the AVMS-D should not deprive Europeans from the benefits of having access to multiple sources and types of content, in particular in relation to diversity of opinion and freedom of speech. In that respect, any legislative change is likely to be confronted with the very nature of the open Internet.

2. *Providing for an optimal level of consumer protection*

The AVMSD is based on a so-called "graduated regulatory approach". The AVMSD acknowledges that a core set of societal values should apply to all audiovisual media services, but sets out lighter regulatory requirements for on-demand services as compared to linear services. The reason is that for on-demand services the users have a more active, "lean-forward" approach and can decide on the content and the time of viewing.

In the area of commercial communications¹⁵, the AVMSD sets out certain rules, which apply to all audiovisual media services and regulate, for example, the use of sponsorship and product placement. They also set limits to commercial communications for alcohol and tobacco.

It also lays down other rules that apply only to television broadcasting services and regulate advertising from a quantitative point of view. For example, they set a maximum of 12 minutes of advertising per hour on television, define how often TV films, cinematographic works and news programmes can be interrupted by advertisements and set the minimum duration of teleshopping windows.

SET OF QUESTIONS 2.1

Are the current rules on commercial communications still relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Over the years, the AVMS-D rules on advertising have proven to be relevant in allowing EU countries to protect vulnerable audiences (e.g. children) and in limiting commercial communications for alcohol and tobacco. In parallel, these rules are complemented with industry codes of conduct that seem to be working fairly well. In that respect, AVMS-D is also seen as effective.

However, from an economic and innovative perspective, DIGITALEUROPE questions whether rules are still adapted to linear broadcasting. We have observed that lighter rules on non-linear content, radio and news publishing content have been conducive to a greater level of innovation, competition and user experience. New advertising techniques have emerged – creating new economic benefits and also greater value to the user (e.g. tailored advertising, relevant viewing recommendations, etc.). In that respect, linear advertising could benefit from lighter rules.

¹⁵ "Audiovisual commercial communication" is a broader concept than advertising and it refers to images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement. See Article 1(1)(h) AVMSD.

Are you aware of issues (e.g. related to consumer protection or competitive disadvantage) caused by the AVMSD's rules governing commercial communications?

YES – NO (If yes, please explain below)

COMMENTS:

DIGITALEUROPE is not aware of issues related to AVMS-D's rules on advertisement. Furthermore, DIGITALEUROPE is concerned by the potential implications on competition and innovation that any legislative change may introduce. Any new rules must ensure that new advertising techniques continue to emerge and are given a chance to compete. This is particularly important in a non-linear environment where some services base their business models on advertising in order to provide free or higher quality content to viewers. A change in the regulation could lead to unintended consequences for such business, lower content quality, or even service termination. This would lead to choice limitation for European viewers in comparison to other regions and could lead to lower innovation and stimulation of new start-up businesses in Europe. Over the years, viewing practices have evolved and will continue to do so. This includes mobile consumption of audiovisual content, the simultaneous use of several screens (which can also interact with each other) or the popularity of larger screens which allow various source of content and services to be displayed in parallel.

From the responses given to the Green Paper on "Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values", DIGITALEUROPE has observed a broad recognition amongst respondents that more tailored advertising techniques are made possible and have the potential to deliver innovative usage and economic benefits. However, there are still some conflicting views on who can decide what appears on the user's screen – even while neither overlaying processes nor scaling on the television screen tamper with the broadcasting signal.

Many users will continue to watch TV in traditional full screen mode according to current norms and practices and no manufacturer or service would take that capability away from the consumer. However, many consumers will be more advanced and ambitious and, just like they organise many windows on a computer to suit their own needs, they appreciate the ability to perform a similar arrangement on any connected device. As screen sizes get ever larger it will be a natural consequence and desire that consumers who have a very large screen may want to view the main source at good quality at a reduced size and use the rest of the screen real estate for a variety of different interactive and non-related uses. Manufacturers will want to and have to cater for these different consumers' likes and dislikes by providing various options and the ability for the user to control them. Preserving the ability for such screen customisation in the EU is essential to ensure that user experience is not degraded in comparison with other markets. Therefore, an obligation to seek content provider consent would effectively mean prohibiting any flexible use of the content on any device.

DIGITALEUROPE remains convinced that the choice of the presentation and possible combinations of different content on one screen should be determined and owned by the user on any connected screen.

The continued evolution of TV like audiovisual viewing must not be limited by unnecessarily prescriptive new rules.

Preferred policy option:

- a) *Maintaining the status quo*
- b) *Rendering the rules on commercial communications more flexible, notably those setting quantitative limits on advertising and on the number of interruptions.*
- c) *Tightening certain rules on advertising that aim to protect vulnerable viewers, notably the rules on alcohol advertising or advertising of products high in fat, salt and sugars.*
- d) *Other options (please describe)*

DIGITALEUROPE would support option b) for linear services and maintaining the status quo (i.e. option a)) for non-linear services – while in parallel, addressing potential new issues through self-regulation (i.e. codes of conducts).

PLEASE EXPLAIN YOUR CHOICE:

The importance of the advertising sector must be thoroughly considered - not only because this sector generates a significant level of economic activity in Europe but also because it is a major source for financing the production of content in Europe – including audiovisual content.

In that context, DIGITALEUROPE appreciates that linear services could be subject to lighter quantitative rules on advertising. The economic benefits of such deregulation would be expected to lead to additional investments into the creation and distribution of audiovisual content – therefore, boosting the European economy and audiovisual industry. As per above, linear services should also be given the opportunity to become more innovative.

Last, experience shows that industry may be able to adapt and develop the appropriate codes of conduct at the point in time when they will be necessary and appropriate which will show the maturity for them to have.

3. *User protection and prohibition of hate speech and discrimination*

General viewers' protection under the AVMSD

The AVMSD lays down a number of rules aimed at protecting viewers/users, minors, people with disabilities, prohibiting hate speech and discrimination.

SET OF QUESTIONS 3.1

Is the overall level of protection afforded by the AVMSD still relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Even if one can always argue that nothing is perfect, it seems that current rules are probably the best trade-off between protection and freedom. By putting in place heavier control on content as it is the case in some countries, the EU would be running the risk, on the one hand, to lose some freedom and, on the other hand, to encourage the use of workarounds (“darknet”) that may become even more difficult to monitor and to control. The central question is whether democracy is more important than user protection.

Furthermore, the wider digital ecosystem, such as user-generated content platforms and other popular online services have been driving initiatives such as industry codes of conduct, self- and co-regulation and the development of industry best practices that help protect consumers and prohibit hate speech and discrimination.

Online services, user-generated content platforms and other applications have established clear policies which prohibit content like gratuitous violence, hate speech and incitement to commit violent acts and remove videos violating these policies when flagged by users. Equally, content displaying terrorist propaganda videos is usually prohibited. Further, many organizations are already involved in the anti-radicalization efforts driven by the European Commission and the Radicalization Awareness Network¹⁶.

Are you aware of issues (e.g. related to consumer protection or competitive disadvantage) stemming from the AVMSD's rules?

YES – NO (If yes, please explain below)

COMMENTS:

Protection of minors

The system of graduated regulation applies also to the protection of minors: the less control a viewer has and the more harmful specific content is, the more restrictions apply. For television broadcasting services, programmes that “might seriously impair” the development of minors are prohibited (i.e., pornography or

¹⁶ (http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/radicalisation_awareness_network/index_en.htm)

gratuitous violence), while those programmes which might simply be "harmful" to minors can only be transmitted when it is ensured that minors will not normally hear or see them. For on-demand services, programmes that "might seriously impair" the development of minors are allowed in on-demand services, but they may only be made available in such a way that minors will not normally hear or see them. There are no restrictions for programmes which might simply be "harmful".

SET OF QUESTIONS 3.2

In relation to the protection of minors, is the distinction between broadcasting and on-demand content provision still relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

In DIGITALEUROPE’s opinion, the distinction between broadcasting and on-demand content provision is still relevant, effective and fair in relation to the protection of minors. Broadcasters have full control on what content is available to consumer on their channels and the AVMS-D captures this situation.

Content that might seriously impair minors must not be included in any programme for linear services. On-demand media services, on the other hand, need to ensure that such content is made available in a way that ensures that minors will not normally hear or see such media services. As mentioned earlier in our paper, user-generated content usually falls outside the scope of the AVMS-D, unless creators retain editorial control over their TV-like content where they select what content to make available and organize it for inclusion in their feeds of channels. In that case, they also decide when to take that content down from the platforms.

Online platforms also have put in place effective controls not possible for traditional services. Modern devices and VOD services have put in place technical solutions to more effectively prevent access to unsuitable content than has been possible with the more blunt solutions available for linear services.

Has the AVMSD been effective in protecting children from seeing/hearing content that may harm them?

YES – NO – NO OPINION

COMMENTS:

As mentioned before, we believe that the AVMS-D, alongside various industry-driven efforts, has guaranteed strong protection of children from seeing, hearing or accessing content that may harm them.

The digital industry has signed a number of codes and charters across Europe and at EU level that commit signatories to aggressive action to prevent the spread of child abuse imagery online. This includes the Better Internet for Kids strategy and The ICT Coalition for Children online.

In addition, the majority of popular digital prosumer services have developed sophisticated ecosystem governance, including enforceable 1) “Community Guidelines” which describe the type of content that is prohibited, 2) “Safety Modes” ensuring that age-restricted content is not displayed to minors, and 3) “community flagging” tools which empower the users to help identifying and hiding inappropriate content.

What are the costs related to implementing such requirements?

Costs:

COMMENTS:

What are the benefits related to implementing such requirements?

Benefits:

COMMENTS:

Are you aware of problems regarding the AVMSD's rules related to protection of minors?

YES – NO (If yes, please explain below)

COMMENTS:

Preferred policy option:

a) *Maintaining the status quo*

b) *Complementing the current AVMSD provisions via self- and co-regulation*

The status quo would be complemented with self-/co-regulatory measures and other actions (media literacy, awareness-raising).

c) *Introducing further harmonisation*

This could include, for example, more harmonisation of technical requirements, coordination and certification of technical protection measures. Other possibilities could be the coordination of labelling

and classification systems or common definitions of key concepts such as minors, pornography, gratuitous violence, impairing and seriously impairing media content.

d) *Deleting the current distinction between the rules covering television broadcasting services and the rules covering on-demand audiovisual media services.*

This means either imposing on on-demand services the same level of protection as on television broadcasting services (levelling-up), or imposing on television broadcasting services the same level of protection as on on-demand services (levelling down).

e) *Extending the scope of the AVMSD to other online content (for instance audiovisual user-generated content or audiovisual content in social media), including non-audiovisual content (for instance still images)*

One option could be that these services would be subject to the same rules on protection of minors as on-demand audiovisual media services.

f) *Other option (please describe)*

PLEASE EXPLAIN YOUR CHOICE:

DIGITALEUROPE and its members are very sensitive to the issue and are committed to the protection of minors in the media. The digital industry has and will continue to innovate and develop numerous tools to control and personalise the use of services, devices, interfaces or applications by the user, all in cooperation with governments, businesses, and civil society.

The digital industry is not often in control of the content viewed on their devices or services. Current AVMS-D rules laid down mandatory standards for the protection of minors tied to the services. This approach is still valid as it addresses the source of the harming content and should be continued in the future. It is preferable over regulation, as this alone cannot solve the issue. Instead self and co-regulatory approaches are better suited as they have the support of all stakeholders and can offer quicker solutions via less complicated means. Many of the suggestions for further harmonisation mentioned in Option C could occur via self- and co-regulation and we invite the European Commission - in close cooperation with industry - to investigate further how such approaches could be implemented in practice.

DIGITALEUROPE also believes more can and should be done to educate parents about the protection on minors in the media. The European Commission should play a key role to allocate funding for these campaigns, in cooperation with civil society and industry to launch concrete and targeted campaigns in all EU-MS to enhance parent's awareness, including via demonstrations on live products.

In addition, the European Commission must take into account ongoing efforts to protect minors at a national level and outside the EU when considering policy options. This will help to ensure consistency and effectiveness of the efforts across the EU and globally.

4. Promoting European audiovisual content

The AVMSD aims to promote European works and as such cultural diversity in the EU. For television broadcasting services, the EU Member States shall ensure, where applicable and by appropriate means, a share of EU works¹⁷ and independent productions¹⁸. For on-demand services, the EU Member States can choose among various options to achieve the objective of promoting cultural diversity. These options include financial contributions to production and rights acquisition of European works or rules guaranteeing a share and/or prominence of European works. The EU Member States must also comply with reporting obligations on the actions pursued to promote European works, in the form of a detailed report to be provided every two years.

SET OF QUESTIONS 4

Are the AVMSD provisions still relevant, effective and fair for promoting cultural diversity and particularly European works?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

In terms of European works, including non-national ones (i.e. those produced in another EU country), the catalogues offered by audiovisual media service providers contain:

a) the right amount;

b) too much;

c) too little

d) no opinion

COMMENTS:

Would you be interested in watching more films produced in another EU country?

YES – NO – NO OPINION

COMMENTS:

¹⁷ For European works: a majority proportion of broadcasters' transmission time.

¹⁸ For European works created by producers who are independent of broadcasters: 10% of broadcasters' transmission time.

Have you come across or are you aware of issues caused by the AVMSD's rules related to the promotion of EU works?

YES – NO (If yes, please explain below)

COMMENTS

What are the benefits of the AVMSD's requirements on the promotion of European works? You may wish to refer to qualitative and/or quantitative benefits (e.g. more visibility or monetary gains).

Benefits:

COMMENTS:

As an audiovisual media service provider, what costs have you incurred due to the AVMSD's requirements on the promotion of European works, including those costs stemming from reporting obligations? Can you estimate the changes in the costs you incurred before and after the entry into force of the AVMSD requirements on the promotion of European works?

Costs:

COMMENTS:

Preferred policy option:

a) *Maintaining the status quo*

b) *Repealing AVMSD obligations for broadcast and/or for on-demand services regarding the promotion of European works. This would entail the removal of EU-level harmonisation on the promotion of European works, which would then be subject to national rules only.*

c) *Introducing more flexibility for the providers' in their choice or implementation of the measures on the promotion of European works.*

This could imply, for example, leaving more choice both to TV broadcasters and video-on-demand providers as to the method of promoting European works.

d) *Reinforcing the existing rules.*

For television broadcasting services this could be done, for example, by introducing additional quotas for non-national European works and/or for European quality programming (e.g. for fiction films, documentaries and TV series) or for co-productions; or by setting a clear percentage to be reserved to Recent Independent Productions¹⁹ (instead of "an adequate proportion"). For on-demand services, further harmonisation could be envisaged: by introducing one compulsory method (among e.g. the

¹⁹ Works transmitted within 5 years of their production.

use of prominence tools, an obligatory share of European works in the catalogue or a financial contribution – as an investment obligation or as a levy) or a combination of these methods.

e) Other options (please describe)

PLEASE EXPLAIN YOUR CHOICE:

Digital technology is profoundly changing the way content is produced, distributed, made available and marketed. Accordingly, rules and regulations that have suited the analogue era may not be suitable today (as exemplified by the use of private copying levies, whose primary function was to compensate rightholders, but are regularly used today to fund cultural activities). This system has led to market distortions due to highly variable levies paid for the same device across Europe, as well as frequent improper control and lack of transparency regarding the use of funds. Changing consumer behaviour, new innovative technologies and increasing options to access and enjoy content may lead to new ways to finance content beyond current schemes. Financing of national content and services of public interest should be primarily financed via general taxation, instead of a ‘new financing regime’ which may hinder innovation in terms of new services, technologies or content.

Distribution of state support for cultural diversity will reach maximum efficiency only if it is monitored by an independent body, involving representatives of consumers and all parts of the value chain to ensure that this support is adequately used to promote local authors and performers and not for other unintended purposes.

However, we believe that the current digital landscape has strongly supported the creation of European works. Digital services and devices have significantly contributed to drive cultural diversity by making European content widely available and discoverable. On the other hand, European culture is exported and viewed outside Europe thanks to the new ways digital content can be disseminated and monetised.

The Berlin Philharmoniker, for example, have started promoting their classical music work by sharing it via various digital online services to entirely new audiences who have never been able to come to enjoy a concert in Berlin otherwise. And the overall numbers confirm that European productions are booming. Latest data show that European film production (including documentaries) and the share of European films in the European box office are at a record historical high: 1603 European films were produced in 2014 (up from 1499 in 2010), and their share of box office (theatrical released) reached 33.6% (up from 25.4% in 2010)²⁰. “The Artist” or “Downton Abbey” are just two out of many productions that became a big success outside the EU and demonstrate the strong global influence of European culture. In fact, four European countries were among the top 20 film producers in the world (between 2005 and 2009)²¹.

20 See European Audiovisual Observatory, ‘Box office up in the European Union in 2014 as European films break market share record’, May 2015, available at http://www.obs.coe.int/en/-/pr-cannes-2015-film-market-trends-2014?redirect=http%3A%2F%2Fwww.obs.coe.int%2Fpress%2Findividual-press-releases%2F2015%3Fp_p_id%3D101_INSTANCE_AboWabb2yPcc%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_pos%3D2%26p_p_col_count%3D3

21 UNESCO, ‘From International Blockbusters to national hits: Analysis of the 2012 UIS Survey on feature film statistics’, available at <http://www.uis.unesco.org/FactSheets/Documents/ib8-analysis-cinema-production-2012-en2.pdf>

The idea to introduce prescriptive quota models and prominence to promote (the access to) European works would have a detrimental impact on the sustainability of existing and new business models which provide European consumers with the ability to access a wide variety of European and international content. Before making further legislative changes, EU guidance on how to structure financing models and identification of best practices is needed. One example of a study which can aid the EC in the development of their guidance is Patrick Messerlin’s *The Effect of Screen Quotas and Subsidy Regime on Cultural Industry: A Case Study of French and Korean Film Industries*²² which recommends to learn from other successful film industries, namely the Korean Film Industry, by making the system more flexible (both incentives and stimulations are crucial) and to embrace the opportunities of Internet technology to disseminate European works. Korea has done what France has failed to do: promote the country’s film industry at a low cost and encourage efficiency. Whereas the French cinema industry is subsidised at 30% (100% for public TV industry), the Korean cinema industry reaches 3% at best. Cultural policy in France and at the European level must adapt to allow European culture to flourish beyond its borders. Creating a dependence on public subsidies such as those generated by copyright levies hinders, rather than helps European culture.

5. Strengthening the single market

Under the AVMSD, audiovisual media companies can provide their services in the EU by complying only with the rules within the Member States under whose jurisdiction they fall. The AVMSD lays down criteria to identify which Member State has jurisdiction over a provider. These criteria include where the central administration is located and where management decisions are taken on programming or selection of content. Further criteria include the location of the workforce and any satellite uplink, and the use of a country’s satellite capacity. The AVMSD foresees the possibility to derogate from this approach in cases of incitement to hatred, protection of minors or where broadcasters try to circumvent stricter rules in specific Member States. In these cases the Member States have to follow specific cooperation procedures.

SET OF QUESTIONS 5

Is the current approach still relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

-

²² Messerlin, Patrick A., Parc, Jimmyn, “The Effect of Screen Quotas and Subsidy Regime on Cultural Industry. A Caste Study of French and Korean Film Industries”, *Journal of International Business and Economy* (2014) 15(2): 57-73 (17 pages)

Are you aware of problems regarding the application of the current approach?

YES – NO (If yes describe and explain their magnitude)

COMMENTS

-

If you are a broadcaster or an on-demand service provider, can you give an estimate of the costs or benefits related to the implementation of the corresponding rules?

YES – NO

Estimate of costs:

Estimate of benefits:

COMMENTS:

Preferred policy option:

a) *Maintaining the status quo*

b) *Strengthening existing cooperation practices*

c) *Revising the rules on cooperation and derogation mechanisms, for example by means of provisions aimed at enhancing their effective functioning*

d) *Simplifying the criteria to determine the jurisdiction to which a provider is subject, for example by focusing on where the editorial decisions on an audiovisual media service are taken.*

e) *Moving to a different approach whereby providers would have to comply with some of the rules (for example on promotion of European works) of the countries where they deliver their services.*

f) *Other options (please describe)*

PLEASE EXPLAIN YOUR CHOICE:

The country of origin principle is the cornerstone of the AVMS-D and it is fundamental that it remains at the heart of the directive. It underpins a number of other key directives and has thus played a vital role in the creation and the functioning of the single market by providing the legal certainty which is essential for business innovation and investment.

The Television without Frontiers Directive has by and large delivered on opening up the European audio-visual market. This success owes much to its cornerstone, i.e. the country of origin principle, which has made a matchless contribution to fostering the circulation of audio-visual content across the European Union. Indeed the enhanced competition between content providers resulting from the enforcement of the country of origin principle afforded European viewers a quantum leap as regards the choice of content available for them to consume. Since the early days, the country of origin principle has actually spelt affordable services anytime anywhere and - increasingly so - on any device for consumers.

For content providers, the country of origin principle has opened up unrivalled access to new audiences that would have been out of reach (see Berliner Philharmoniker example above) otherwise. This is all the more true for smaller players and niche content providers thus enabled to address a critical mass of audience that would elude their reach in strictly national markets.

For all these reasons, DIGITALEUROPE is concerned that any consideration given to water down the Country of Origin principle would move the EU backwards. How can a Commission committed to build a true Digital Single Market contemplate doing away with the principle of free movement of European TV programmes that was enshrined in the TWF Directive and that has served consumers and broadcasters so well since 1989? In keeping with this successful legacy, the AVMS Directive set out to 'achieve a modern, flexible and simplified framework for audiovisual media content'. It did not shy away from identifying the country of origin as a key enabler of a properly modernized and successful audiovisual framework, as explained in this summary: "All these services will benefit from the country of origin principle and will therefore have to comply only with the legal provisions in force in the country in which they are established. Extending the benefits of this principle to non-linear services will create the best conditions for their commercial success".

As a matter of principle, it is hard to understand why the Commission would erect again borders that have long disappeared. Is the plan to turn the legacy of 'TV without frontiers' into a 'Content comes with borders' retrofit?

Beyond principles, the actual achievements of 'TV without frontiers' and AVMS would be wiped out in one swoop as content would lose the optimal exposure that only the country of origin principle is able to secure.

Should there be a need for better cooperation between Member State Regulatory Authorities, DIGITALEUROPE sees no harm in making current cooperation mechanisms more effective. The criteria for such mechanisms and related derogations to be triggered should however be read in a narrow sense so that they are pursued only in cases where there is a legitimate reason in terms of public interest. Making a rule of what should be a rare exception to the country of origin principle would hit regulators, consumers and all the industries concerned. Actually there would be no better evidence that the new Directive is flawed.

6. Strengthening media freedom and pluralism, access to information and accessibility to content for people with disabilities

Independence of regulators

Free and pluralistic media are among the EU's most essential democratic values. It is important to consider the role that independent audiovisual regulatory bodies can play in safeguarding those values within the scope of the AVMSD. Article 30 AVMSD states that independent audiovisual regulatory authorities should cooperate with each other and the Commission. The AVMSD does not directly lay down an obligation to ensure the independence of regulatory bodies, nor to create an independent regulatory body, if such a body does not already exist.

SET OF QUESTIONS 6.1

Are the provisions of the AVMSD on the independence of audiovisual regulators relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Are you aware of problems regarding the independence of audiovisual regulators?

YES – NO (If yes, please explain below)

COMMENTS:

Preferred policy option:

a) *Maintaining the status quo*

b) *Laying down in the AVMSD a mandate for the independence of regulatory authorities, for example by introducing an explicit requirement for the Member States to guarantee the independence of national regulatory bodies and ensure that they exercise their powers impartially and transparently.*

c) *Laying down minimum mandatory requirements for regulatory authorities, for example detailed features that national regulatory bodies would need to have in order to ensure their independence.*

Such features could relate to transparent decision-making processes; accountability to relevant stakeholders; open and transparent procedures for the nomination, appointment and removal of

Board Members; knowledge and expertise of human resources; financial, operational and decision making autonomy; effective enforcement powers, etc.

d) Other options (please describe).

Maintain the status quo while monitoring what is happening in Member States in view both of the new power of regulators (if any) in case of a deep revision of the AVMS-D and/or new entrant in the EC which may have a different view on independence compared to the current situation.

PLEASE EXPLAIN YOUR CHOICE:

With the current level of harmonisation in Europe, the independence of regulators has not proven to be an issue. In case of possible significant evolution of the AVMS-D in a direction giving more power to Member States and less harmonisation, the issue may arise. This could be particularly true if the principle of the country of origin is progressively transformed into a country of destination principle.

Must Carry/Findability

In the context of the regulatory framework applicable to the telecoms operators, under the Universal Service Directive²³, Member States can in certain circumstances oblige providers of electronic communications networks to transmit specific TV and radio channels ("must-carry" rules). Under the Access Directive²⁴, Member States can also set rules on the inclusion of radio and TV services in electronic programme guides (EPGs)²⁵ and on presentational aspects of EPGs such as the channel listing. Most recent market and technological developments (new distribution channels, the proliferation of audiovisual content, etc.) have highlighted the need to reflect on the validity of the must-carry rules and on whether updated rules would be required to facilitate or ensure access to public interest content (to be defined at Member State level), for instance by giving this content a certain prominence (i.e. ensuring findability/discoverability).

SET OF QUESTIONS 6.2

Is the current regulatory framework effective in providing access to certain 'public interest' content?

Effective? YES – NO – NO OPINION

COMMENTS:

23 Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, as amended by Directive 2009/136/EC

24 Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), as amended by Directive 2009/140/EC

25 Electronic programme guides (EPGs) are menu-based systems that provide users of television, radio and other media applications with continuously updated menus displaying broadcast programming or scheduling information for current and upcoming programming.

Yes, the current regulatory framework still is effective. First it has to be stated again, that digital services others than AV media services as defined by the AVMS-D generally have another role than infrastructure providers, because they do not have editorial control over the content.

Digital devices and services extend media pluralism and significantly augment, rather than limit, the richness of access to content as mentioned previously. Thus, digital devices and services greatly contribute to the goal of media diversity and the free flow of information in the European Union. In fact, device manufacturers and digital service providers compete by offering access to as many applications and as much content as possible.

If anything, we see tendencies from broadcasters to select preferred manufacturers, to charge for apps' adaptation for specific portals and devices, and/or to refuse to make their applications and content available to other manufacturers for business and contractual reasons, not for technical ones.

Public service broadcasters operate under the public service remit that justifies the intervention in the European Audiovisual market with the aim of assuring media plurality, strengthening democracy and furthering European integration. Such an important mandate in today's world cannot be limited solely to first-linear distribution given today's changing consumption patterns. Furthermore, as the obligation under the public service remit is targeted at public service broadcasters, it is natural that they fulfil their obligations and secure necessary rights for all mandatory linear and non-linear redistributions of their content to assure that all citizens can enjoy the benefits of public service broadcasting. In this context, the European Commission should consider introducing a related 'must-offer' obligation.

If you are a consumer, have you faced any problems in accessing, finding and enjoying TV and radio channels?

YES – NO (If yes, please explain below)

COMMENTS:

Have you ever experienced problems regarding access to certain 'public interest' content?

YES – NO (If yes, please explain below)

COMMENTS:

Preferred policy option:

a) *Maintaining the status quo, i.e. keeping in place the current EU rules on must carry/ EPG related provisions (i.e. no extension of the right of EU Member States to cover services other than broadcast).*

b) *Removing 'must carry' /EPG related obligations at national level/at EU level.*

c) *Extending existing "must-carry" rules to on-demand services/and or further services currently not covered by the AVMSD.*

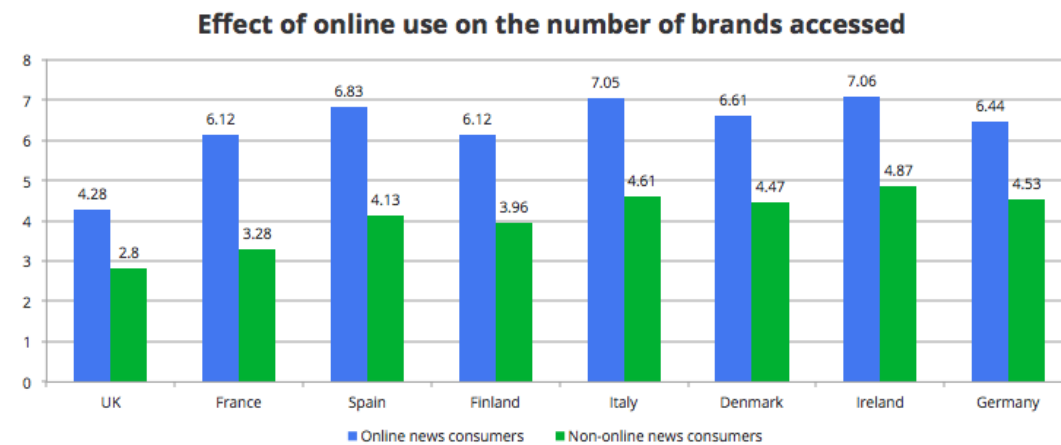
d) Amending the AVMSD to include rules related to the "discoverability" of public interest content (for instance rules relating to the prominence of "public interest" content on distribution platforms for on-demand audiovisual media services).

e) Addressing potential issues only in the context of the comprehensive assessment related to the role of online platforms and intermediaries to be launched at the end of 2015 as announced in the Digital Single Market Strategy for Europe.

f) Other options (please describe).

PLEASE EXPLAIN YOUR CHOICE:

For users it is important that they easily find the content they want to watch, therefore both device manufacturers and digital service providers aim to facilitate best usability via easy to handle user interfaces and navigation. In fact, studies show that digital services have increased the diversity of news services accessed by users (see graph below which compares the media brands accessed by online consumers vis-à-vis non-online consumers)²⁶.



Another study found that users of digital services in Germany and Italy visit new, smaller sites for their information, in addition to their traditional sources. It found that such services were significant in allowing smaller, alternative sources to be discovered and gain traffic²⁷.

Further, connected devices facilitate users' easy access to different applications like social networks, search engines or newsreaders. Roughly 75% of the users of these services say that they access sources that they would not usually consume thanks to the provision of such digital services offered via

26 Reuters Institute Digital News Report (2015)

27 Italian Institute for Policy and Data Valorization, 'The effects of search engines on pluralism of information' (2014), available at <http://www.istitutoitalianoprivacy.it/Search-Engines-Pluralism-IIP-Study.pdf>

connected devices²⁸. In other words, there are no gatekeepers to public interest content but rather an increase of diversity thanks to connected devices and digital services.

The concept of “must be found”, however, is challenging the status quo and carries significant potential for discrimination among digital content providers. Privileging specific programmes or content distributors would disadvantage others. In particular, privileges held by public broadcasters with respect to their linear content should not automatically and without good reason be extended to non-linear content from the same providers. Public broadcast services will easily be found without “must be found” provisions for several reasons:

Operators give TV services a privileged place when using LCN (Logical Channel Numbers) which grant priority to public broadcast services to be accessed with direct dial number. Linear Electronic Programme Guides (EPGs) follow the order as defined by LCNs.

Furthermore public broadcast services are very popular and enrich portals. It is against the interest of digital service providers to frustrate consumers by complicating their access to popular services.

Establishing concrete rules regarding where to place services within portals would also imply a disproportional intervention regarding their business operations.

Furthermore, ‘must be found’ cannot mean that the user gets dictated what to watch because every content provider has to face competition regarding the user’s attention on its own.

As it is in everyone’s interest to ensure that search tools are user-friendly and efficient, the provision of a given content (“must carry”) and its pre-eminence in content offers and search results (“must be found”) should not be forced by legislation.

Therefore, DIGITALEUROPE recommends that it should be left to market forces (both the supply and demand side) to deliver an increasingly diverse and vibrant market for audio-visual content and services in Europe.

Finally, the public service remit comes with some vital overarching political objectives of democracy, media plurality and European integration. This is the key foundation for the intervention in the European TV market and the justification of public service broadcasting. Furthermore, these vital objectives are financed already by the public through taxes and/or mandatory licenses. In addition, some content classes such as current affairs reporting (news, documentaries and etc.) are distinctly different from other content classes such as Film, TV- serials, Entertainment, Shows etc. Put differently, there is little ambiguity where to draw the boundary between the former and the latter content classes.

Based on the above, current news reporting produced by public service broadcasters should fall under the scope of open government data. The benefits associated with open government data have been recognized in many other areas and constitute a significant imperative for public services’ contribution in enabling data-driven innovation economy throughout Europe. The question that has been left

28 Reuters Institute Digital News Report 2015

unanswered is why to exclude public service broadcasting and in particular some specific content class? Opening up some public service content as open government data is an intervention that could open up for new innovations and aggregation of pan-European current affairs reporting, creating a Digital Single Market for European public service Current Affairs reporting available to all EU citizens. This would positively contribute to furthering European integration and reinforcing media plurality and democracy at pan-European level.

Accessibility for people with disabilities

The AVMSD sets out that the Member States need to show that they encourage audiovisual media service providers under their jurisdiction to gradually provide for accessibility services for hearing and visually-impaired viewers.

SET OF QUESTIONS 6.3

Is the AVMSD effective in providing fair access of audiovisual content to people with a visual or hearing disability?

Effective? YES – NO – NO OPINION

COMMENTS:

Have you ever experienced problems regarding the accessibility of audiovisual media services for people with a visual or hearing disability?

YES – NO (If yes, please explain below)

COMMENTS

If you are a broadcaster, can you provide an estimate of the costs linked to these provisions?

YES – NO

Cost:

COMMENTS:

Preferred policy option:

a) *Maintaining the status quo*

b) *Strengthening EU-level harmonisation of these rules.*

Instead of encouraging it, the EU Member States would be obliged to ensure gradual accessibility of audiovisual works for people with visual and hearing impairments. This obligation could be implemented by the EU Member States through legislation or co-regulation.

c) *Introducing self and co-regulatory measures*

This could include measures related to subtitling or sign language and audio-description.

d) *Other option (please describe).*

PLEASE EXPLAIN YOUR CHOICE

DIGITALEUROPE's vision for e-Inclusion is to ensure that the digital industry can provide accessible goods and services to people with disabilities and older persons in the European Union, in an innovative way within a modern regulatory environment. Its members have undertaken a number of efforts to improve the level of accessibility of digital televisions in recent years, including:

- An Industry Self-Commitment for Television entering the market from 2009,
- An International Standard for text-to-speech for Digital TV (IEC 62731) approved in 2013,
- Members role in defining DVB accessibility specifications including codecs, subtitling, service information and spoken subtitling,
- Substantial cooperation efforts with disability NGOs, associations and standardisation organisations,
- Ongoing creation of a new IEC specification on digital TV (IEC 62944).

Where DIGITALEUROPE does see problems is in the varying and often poor level and quality of accessible content across EU Member States where both public and private broadcasters fail to include nor regulators require what is needed for persons with disabilities and older persons.

TV manufacturers often receive comments from viewers that their devices are not accessible when in fact it is the content emitted that is not. This demonstrates the need to increase both the proportion and quality of accessible content of public and private broadcasts, with only the UK and Ireland providing good practices. This is why DIGITALEUROPE supports strengthening EU-level harmonisation of rules, where EU Member States would be required to gradually increase the level of accessible audiovisual works.

DIGITALEUROPE also welcomes the EC's efforts to use crowdsourcing and other innovative solutions to develop cost effective solutions for subtitling, thereby increasing the supply and visibility of accessible works, including cross border.

Events of major importance for society

The AVMSD authorises the Member States to prohibit the exclusive broadcasting of events which they deem to be of major importance for society, where such broadcasts would deprive a substantial proportion of the public of the possibility of following those events on free-to-air television. The AVMSD mentions the football World Cup

and the European football championship as examples of such events. When a Member State notifies a list of events of major importance, the Commission needs to assess the list's compatibility with EU law. If considered compatible, a list will benefit from 'mutual recognition'.

SET OF QUESTIONS 6.4

Are the provisions of the AVMSD on events of major importance for society relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Have you ever experienced problems regarding events of major importance for society in television broadcasting services?

YES – NO (If yes, please explain below)

COMMENTS

Preferred policy option:

a) Maintaining the status quo

b) Other options (please describe).

PLEASE EXPLAIN YOUR CHOICE

Short news reports

The AVMSD requires Member States to ensure that broadcasters established in the Union have access, on a fair, reasonable and non-discriminatory basis, to events of high interest to the public for the purposes of short news reports.

SET OF QUESTIONS 6.5

Are the provisions of the AVMSD on short news reports relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Have you ever experienced problems regarding short news reports in television broadcasting services?

YES – NO (If yes, please explain below)

COMMENTS

Preferred policy option:

a) Maintaining the status quo

b) Other options (please describe).

PLEASE EXPLAIN YOUR CHOICE

Right of reply

The AVMSD lays down that any natural or legal person, regardless of nationality, whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme must have a right of reply or equivalent remedies.

SET OF QUESTIONS 6.6

Are the provisions of the AVMSD on the right of reply relevant, effective and fair?

Relevant? YES – NO – NO OPINION

Effective? YES – NO – NO OPINION

Fair? YES – NO – NO OPINION

COMMENTS:

Have you ever experienced problems regarding the right of reply in television broadcasting services?

YES – NO (If yes, please explain below)

COMMENTS

Preferred policy option:

a) Maintaining the status quo

b) Other options (please describe).

PLEASE EXPLAIN YOUR CHOICE

Conclusions and next steps

This public consultation will be closed on 30 September 2015

On the basis of the responses, the Commission will complete the Regulatory Fitness and Performance (REFIT) evaluation of the AVMSD and inform the Impact Assessment process on the policy options for the future of AVMSD.

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For more information please contact:
 Marc Soignet, DIGITALEUROPE's Policy Manager
 +32 2 609 53 37 or marc.soisnet@digitaleurope.org

ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies.

DIGITALEUROPE ensures industry participation in the development and implementation of EU policies. DIGITALEUROPE's members include 59 corporate members and 35 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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National Trade Associations

Belarus: INFOPARK

Belgium: AGORIA

Bulgaria: BAIT

Cyprus: CITEA

Denmark: DI ITEK, IT-BRANCHEN

Estonia: ITL

Finland: FFTI

France: AFDEL, AFNUM, Force Numérique

Germany: BITKOM, ZVEI

Greece: SEPE

Hungary: IVSZ

Ireland: ICT IRELAND

Italy: ANITEC

Lithuania: INFOBALT

Netherlands: Nederland ICT, FIAR

Poland: KIGEIT, PIIT

Portugal: AGEFE

Romania: ANIS, APDETIC

Slovakia: ITAS

Slovenia: GZS

Spain: AMETIC

Sweden: Foreningen Teknikföretagen i Sverige, IT&Telekomföretagen

Switzerland: SWICO

Turkey: Digital Turkey Platform, ECID

Ukraine: IT UKRAINE

United Kingdom: techUK