

AVMS/perspective from the CULT committee in the European Parliament

1) First of all and very important for you to understand is: the legislation process at EU level is IN PROGRESS

The media landscape has shifted dramatically in less than a decade. Instead of sitting in front of the family TV, millions of Europeans, especially young people, watch content online, on demand and on different mobile devices.

That is why the **European Commission**, the executive body of the EU, has decided to update the rules regarding audio-visual and media services, and therefore last May published a proposal for a revision of the current directive.

The overarching goal of the proposal is to bring about a balance between competitiveness and consumer protection. It therefore aims to introduce flexibility when restrictions only applicable to TV are no longer justified, promote European films, protect minors and tackle hate speech more efficiently. The proposal also reflects a new approach to online platforms.

Next the 2 EU co-legislators, namely the Council of the EU, which represents Member States, and the European Parliament, which represents the interest of the citizens, will now amend and modify the proposal, and then negotiate with each other, but also with the Commission, in order to find a balanced compromise.

So there's still a long long way to go before we get a revised directive.

At the moment, we are working on the Parliament position. The CULT committee is responsible for drafting the position, and we have designated two co-rapporteurs from the two biggest political groups, one from the Socialists & Democrats and one from the EPP, the center-right group. But they are both German, which might be an issue in terms of geographical balance and independence towards national interests. It's worth noting that the Commissioner for Digital Market so far is German too, although he has just been promoted to a new portfolio, it definitely had an impact on the Commission proposal as well.

They worked together during the summer and proposed in September a new version of the draft revised directive that the other members of the committee have been invited to scrutinise and amend.

The deadline for amendments was only 2 weeks ago and the amendments, and the English version of the 1044 Amendments has only just been published online.

So it's difficult for me to give you at this stage a clear idea of what will be the position of the Parliament, as there are many different opinions within the committee and within the groups etc.

Yet I can give you a quick overview of the main elements of the version proposed by the 2 co-rapporteurs:

2) The main elements of the draft report by the Parliament rapporteurs

The two co-rapporteurs welcomed 3 aspects:

- the simplification of the 'country of origin principle',
- the deregulation of rules on commercial communications and
- the improvements in the protection of minors.

Overall, P. Kammerevert and S. Verheyen support the principle of a more level playing field for traditional broadcasting services and on demand services. They propose however a variety of amendments reflecting their opinions. In addition, they suggest that the **quota for European content be raised from 20% to 30%**, given that the current average among EU countries stands at 27%. The two co-rapporteurs are also proposing to **enhance the provisions on advertising by way of a stricter application of the 20% daily quota during the main listening hours (8.00pm to 11.00pm)**. Likewise, they back **the restrictions on advertising for alcoholic drinks, tobacco and prescription medicines**, but consider that advertising on nutrition should be regulated by professional codes of conduct. The draft **report** suggests applying the directive notification and withdrawal principle on e-commerce in cases where videos can be harmful to minors.

On Accessibility: The provisions on accessibility are deleted in the Commission's proposal with reference to the proposed European Accessibility Act which sets accessibility requirements for a wide range of products and services including AVMS. The rapporteurs were not enthusiastic about the deletion of the sector-specific accessibility provisions and have put accessibility provisions back in the AVMS.

This is a rough summary of the main elements of the draft report but again, the debate is really open in the committee, with different perspectives even from members belonging to the same political group as the rapporteurs, so the document is still likely to change a lot.

3) Elements of contention from the EP draft

Indeed, some of the changes proposed by the rapporteurs have already raised some concerns within the MEPs and are not likely to be adopted as they are proposed:

- **Independence of regulatory bodies.** The EC draft strengthen the independence of national regulators from both government and big firms, stating that they must be a separate body from national authorities. The draft presented by the rapporteurs originally seemed to have watered down this wording, but many members had already submitted amendments to propose stronger wording on independence of regulators.

- **Role of ERGA** (European Agency of regulators). ERGA is a group of experts set up by the EC to deliver opinions on the functioning of media services, with good results. As it was not mentioned in the first directive and only created afterwards, the EC has used this revision to clearly mention this Agency and recognise its values. The rapporteurs tried to limit the power given to ERGA, but other members like the Commission proposal here.

- **Accessibility for disabled people and protection of minors:** the EP version of provisions were still too vague. The intergroup on children's rights and myself have submitted AMs on both issues.

4) The issues I am particularly interested in:

The AVMS is a gigantic piece of work and touches upon many different issues. I have been following the main developments but I trust my colleagues in charge of the dossier for the more technical details. Nevertheless, I have followed with more personal interest some particular issues, and made amendments accordingly:

- Cyberbullying

- Consultation of civil society
- Media Literacy
- Protection of minors
- Disability/accessibility

In all these issues I have consulted with civil society organisations and stakeholders, as communities know better than us what they need.

5) Issues that are relevant to the UK and the Probable impact of Brexit regarding this file

I want to finish by underlining the issues that are particularly important to the UK and the possible impact of Brexit in the field of audio-visual and media services.

The European market is the first in terms of export for UK Creative and Cultural industries and significant audiovisual and media sector (Sky, BBC, ITV, Channel 4).

The CC industries have been very active in lobbying for the copyrights review and AVMS as it impacts their business tremendously. Indeed there will be implications for the licensing of services in the UK by Ofcom, and an impact on pan-European/overseas audio-visual services that currently fall under the UK regime - such as the country of origin principle under the Audio Visual Media Services (AVMS) Directive. Media companies may need to look into the possibility of obtaining broadcasting licences in one or more remaining Member States - and address jurisdiction issues under the AVMS Directive.

Industry lobbying was key regarding the Commission safeguarding the “country of origin” principle in AVMS. Both the DCMS and industries have argued the benefits that the country of origin principle brings to the UK, and how they viewed the principle as being a core part of the Directive. Indeed the principle of regulation only in the country of origin allows such services to be based in the UK, even though their intended public and market might be elsewhere in Europe. Currently there are over **650 channels licensed by Ofcom**, the UK regulator, which solely distribute content to other Member States, and to varying degrees contribute to the UK economy.

Outside the EU, the UK might no longer be a country of choice for many media companies. In addition, if the UK could no longer influence the media regulations and policy making at EU level, it would still have to comply with an increased geographical harmonisation of rights and requirements, and possibly reforms that might not turn into its advantage.

That’s something we should keep in mind in the coming negotiations of art. 50