

Audiovisual Media Services Directive

Background

The Audiovisual Media Services Directive stipulates quantitative and qualitative advertising rules on TV and to a certain extent other non-linear audiovisual media services.

The Commission has initiated a review of the Directive as part of the Digital Single Market package. The review process started in June 2015 when the Commission launched a public consultation to which EACA responded to. In May 2016, the Commission released [a new proposal](#).

In May 2017, the European Parliament and the Council of the EU (Member States) reached their own positions and soon they will enter negotiation with the European Commission.

You will find below the most important points of the Directive and EACA's take on it.

Self and co-regulation

The Commission's proposal renewed its support for self and co-regulation. Recital 7 makes a clear reference to the Better Regulation Principles and to the Principles for Better Self and Co-Regulation, developed by the Community of Practice. Self-regulatory systems are well developed within national and cultural frameworks with clear objectives and enforcement measures. An exchange of best practices of SROs, facilitated by the European Advertising Standards Alliance (EASA), continues to be successful, as recognised by the Commission's study on self-regulation. To that end, we welcome the Commission's intention to continue endorsing self and co-regulation in all domains.

However, we are concerned by the approach taken at the European Parliament which stipulates that Member States will enforce codes of conduct. We believe that this is against the nature of self-regulation.

Furthermore, we are concerned by the approach taken by the Council which adopted the text saying that Member States shall encourage the use of co-regulation and foster self-regulation. We fear that this may lead to the preference of co-regulation over self-regulation without acknowledging that the first is not possible without the later.

Children's programmes

The Commission proposed a shift from 'children programmes' to 'programmes with a significant children audience' adds to the confusion. It is unclear what a significant children audience is, while the 'children programmes' stipulation is much easier for businesses to comprehend and apply, and for regulators to enforce.

The Council's wording of 'children's programmes' is much clearer than the Parliament's 'children's programmes and content aimed at children'.

Product placement

EACA welcomes the Commission's decision to make product placement rules more flexible (Article 11). The existing Directive is very difficult to interpret and apply across the EU. To that end, the proposal represents a step in the right direction by simplifying the rules and making them more flexible.

Alcohol advertising

The Ecorys study on minors' exposure to alcohol advertising proved that children are not specifically targeted by alcohol advertising, which is clearly recognised by the Commission who kept the Article 22 intact. The advertising industry is committed to responsible advertising practices and as such it has developed effective self-regulation which stipulates that advertising should not target minors.

We fear that the Parliament's position and the removal of the word 'specifically' from the article stipulating 'alcohol commercial communications shall not specifically target minors' may lead to increased legal uncertainty and lack of clarity.

Video-sharing platforms

The proposal also aims to regulate video-sharing platforms in the context of protection of minors from content which may impair their physical, mental or moral development. EACA believes that this development is in line with the intention to establish a level playing field between different media. Furthermore, platforms should be held accountable and the co-regulatory approach is welcome. We believe that a large majority of platforms already has significant mechanisms in place and that the Directive will only add a co-regulatory perspective to their efforts.

Minimum harmonisation

The concept of minimum harmonisation in the proposal is also welcome. However, we invite the European Commission and the European Parliament to be cautious about its implications for the free movement of services across Europe.

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