

EUROPEAN PARLIAMENT



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Revision of the EU-TV directive - Directive for audiovisual Media Services (COM (2005)646)

I. State of affairs

The EU's TV directive (TVWF : TV-Without Frontiers) has been applied since 1989. Its main principles are the **country of origin principle** and the safeguard of common **minimum standards**. These minimum standards have being applied for

- **the definition of the country of origin principle**
- **protection of minors**
- **protection of consumers**
- **regulations on advertisement**
- **promotion of European productions**

The **TVWF** directive has been updated in 1997 and has achieved its aims with success. Today, **fundamental new technological developments** have made a revision of this directive necessary.

II. What are the problems?

The current **TVWF** directive **applies only for analogue television broadcasting**. But digital technologies have been developed for years. The general **switch-over to digital technologies** for TV-transmissions should be completed in the EU **by 2010**.

Digital technologies do not only provide **new ways of transmission**, but as well **new platforms for TV** like **the internet, computers, video or mobile phones**. Besides traditional TV broadcasting an increasing number of providers are starting to offer **video-on-demand** services and **TV-like media services**.

Legally, traditional TV-Broadcasting transmitted by a digital infrastructure and these new media services are **not covered by the TVWF** directive and the demarcation to e-commerce has **not yet been clarified**.

III What is the proposed solution?

The European Commission has presented its proposal for the revision of the TVWF directive on 13th December 2005. This proposition is oriented in line with the main principles established by the first directive and aims to develop this **directive in a technologically neutral manner towards a directive for audiovisual media services**.

Equal contents should be treated in the same manner in legal terms, independent of the transmission technology used. As in many member states, the **level of regulation** should depend on the **importance of contents for the formation of public opinion**.

For these reasons, the European Commission proposes the **following points** for the revision of the TVWF directive:

1. The **scope** of the directive shall apply to **audiovisual media services**, the main aim of which is the supply of **moving pictures, with and without sound, for the purposes of information, entertainment or education of the public** via electronic communication networks.

Thus, the TVWF directive **will not apply to those electronic services which do not satisfy these aims** - like the electronic press, radio broadcasting, private communications and e-commerce. These are either covered by the e-commerce directive, or by national legislation, as appropriate.

2. Regarding of the **level of regulation** of audiovisual media services, there will be a distinction between:
 - **linear audiovisual media services** = programmed services
 - **non-linear audiovisual media services** = services on demand

Until now, only the minimum regulations on protection of minors and safeguard of human dignity apply to non-linear audiovisual media services.

Besides these minimum regulations on protection of minors and safeguard of human dignity a number of other regulations apply to linear audiovisual media services.

The **principle of Co-Regulation** is implemented for the first time in European legislation with the purpose to support national legislation. Co-regulation and self-regulation are foreseen especially for the application of the directive to non-linear audiovisual media-services.

3. **Regulations on advertisement shall only apply to linear media services.**

Quantitative Regulation for advertisement is deregulated, qualitative regulation for advertisement (such as the ban on surreptitious advertising, separation of content and advertisement) **are kept.**

The legalisation of **product placement** is new and has been the object of much controversy. A few Member states, especially Germany, are worried about product-placement.

4. Quotas for the promotion of **European productions** shall apply only to **linear media services**. There is a proposal to Member states for a **general obligation for the promotion of European productions in the non-linear media service sector.**
5. A new idea is the right to **short reporting** (max. 90 sec.), which already exists in some Member states.

IV Issues which need to be discussed further

1. The **scope** of the directive, especially the **demarcation** between linear services, non-linear services and e-commerce.
2. **Quantitative advertisement** rules, the ban of block advertisement, the hourly limit of advertisement.
3. **Qualitative advertisement rules**, especially the legalisation of product placement
4. **Programme quotas** and **obligation** upon the suppliers of media services to **promote European productions.**
5. The right to **short reporting**
6. The **problems** of certain small Member states with the **Country of Origin Principle.**