

The Consumer Voice in Europe

## REVIEW OF THE AUDIOVISUAL MEDIA SERVICES DIRECTIVE

BEUC response to the EC public consultation on Directive  
2010/13/EU



**Contact: David Martin – [digital@beuc.eu](mailto:digital@beuc.eu)**

**BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND**  
Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • [www.twitter.com/beuc](http://www.twitter.com/beuc) • [consumers@beuc.eu](mailto:consumers@beuc.eu) • [www.beuc.eu](http://www.beuc.eu)  
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- The representative of an organisation/company.

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- Pay TV aggregators
- Free and pay VOD operators
- IPTV, ISPs, cable operators including telcos
- European-level representative platform or association
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- Research body/academia
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- Other

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*Rue d'Arlon 80 - Brussels B-1040, (+322) 7431590, [digital@beuc.eu](mailto:digital@beuc.eu)*

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What is your primary place of establishment or the primary place of establishment of the entity you represent?

*Brussels (Belgium)*

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## Questionnaire

### QUESTIONS

#### 1. **Ensuring a level playing field**

##### **SET OF QUESTIONS 1.1**

**Are the provisions on the services to which the Directive applies (television broadcasting and on-demand services) still relevant<sup>1</sup>, effective<sup>2</sup> and fair<sup>3</sup>?**

Relevant?  YES –  NO –  NO OPINION

Effective?  YES –  NO –  NO OPINION

Fair?  YES –  NO –  NO OPINION

##### COMMENTS:

*The Audiovisual Media Services Directive (AVMSD) has been successful in combining the right to provide audiovisual services with the right to freedom of expression and information and the protection of important public interest objectives. However, media convergence and connected devices mark a major challenge to the current regulatory framework. The boundaries between linear and non-linear are blurring and the ways in which consumers access audiovisual content are shifting. Copyright and territorial related restrictions aside, media convergence provides consumers with new services to enjoy the content of their choice at anytime, anywhere and on any type of device. For the younger generations, online media channels are increasingly substituting traditional television.*

*BEUC believes that the rules contained in the AVMSD are still relevant. However, the graduated approach between linear and non-linear must be re-assessed in order to guarantee a high level of protection no matter the type of service is being used to access audiovisual content. We believe that all service providers, be they linear or non-linear, should be bound by the same obligations to comply with consumer protection rules as long as the provider has the responsibility for the choice of the content and determines the manners in which it is organised.*

<sup>1</sup> Relevance looks at the relationship between the needs and problems in society and the objectives of the intervention.

<sup>2</sup> Effectiveness analysis considers how successful EU action has been in achieving or progressing towards its objectives.

<sup>3</sup> How fairly are the different effects distributed across the different stakeholders?

**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:

*The fact that the AVMSD rules do not apply to video sharing platforms whose business models are mainly based on monetising the video views through advertising poses problems from the point of view of consumer protection, particularly with regards to commercial communications and the protection of minors.*

*Commercial communications in these kind of platforms are problematic, particularly given that sites such as YouTube are very popular with children, being one of the first sites that they visit when they start being active online. While we should avoid introducing general regulations to deal with the problems posed by an individual player, the case of YouTube does serve as a perfect example to illustrate some of the complex issues we are facing. In the US, consumer organisations have already filed complaints denouncing problems with advertising and access to inappropriate content through the "YouTube for Kids" app ([link](#)). Also, on YouTube we find different types of audiovisual content (purely user generated videos created with no commercial purposes, straightforward marketing videos, branded channels, clips taken from TV programmes, movies, etc.) which is in theory falling under different rules. However, in some cases it is very difficult to discern what falls under the scope of the Directive and what does not. Needless to say, consumers are often exposed and largely unaware that different regulatory regimes might apply. For example, there have been cases in the UK illustrating some of the problems related to the transparency of advertising content on YouTube ([link](#) // [link](#)).*

*This situation requires in our view a reassessment of the scope of the directive in order to ensure legal certainty, a uniform level of protection across all audiovisual media channels and a level playing field for all operators. In this regard, professional users of video hosting platforms often post content that could serve for commercial purposes e.g. a company uploading videos promoting their products. Such situations should also be contemplated when defining the scope of the directive, particularly if such content is addressed to children.*

*Moreover, it is necessary to refine the scope of some of the key concepts that are at the core of the regulatory regime, such as the notion of 'editorial responsibility'. For example,*

*it can be argued that video sharing platforms can exercise editorial control over the content appearing on their sites under certain circumstances by controlling the way content is presented to the users.*

*Another aspect of particular concern in terms of consumer protection is marketing of foods high in fat, sugars and salt to children. Companies operating across the EU increasingly target children through computer games, mobile phones, social networks such as Facebook and video sharing services such as YouTube. Because marketing influences children choices it has been acknowledged as one of the key factors contributing to the childhood obesity. Rules restricting audiovisual content that promotes the consumption unhealthy food to children should be implemented.*

***Preferred policy option:***

- a)  *Maintaining the status quo*
- b)  *Issuing European Commission's guidance clarifying the scope of the AVMSD. No other changes to Union law would be foreseen.*
- c)  *Amending law(s) other than the AVMSD, notably the e-Commerce Directive. This option could be complemented by self and co-regulatory initiatives.*
- d)  *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.*
- e)  *Other option (please describe)*

**PLEASE EXPLAIN YOUR CHOICE:**

*To achieve the necessary level of consumer protection in the digital environment the scope of the Directive or, at least some of its provisions, shall be extended beyond its current reach, particularly in terms of the measures related to commercial communications and protection of minors. A clear regulatory framework is necessary to avoid that the Internet becomes the "Wild West" of advertising and to ensure a high level of protection no matter the platform or device that consumers are using to access the audiovisual content of their choice. Self and co-regulation can also potentially play a role to overcome the existing challenges without imposing excessive regulatory burden but it should be preferably considered as a complement to standard regulation. In particular, self-regulation should only be considered if key conditions are in place at the outset. These conditions include, but are not limited to: high binding standards, large industry take up, effective monitoring and inspection, robust sanctions in case of violations and real redress for victims. However, these conditions are only rarely fulfilled*

*and there is plenty of evidence that these instruments most often do not lead to the desired outcomes.*

*In addition, when it comes to providers hosting user-generated content, the extension of the scope of the AVMSD would be insufficient without completing the review of the Copyright Directive. The introduction of a 'user-generated content exception' for non-commercial purposes in the EU copyright framework would at the same time help clarify when the content is deemed to have commercial value and should therefore be subjected to the audiovisual regulation. Additionally, this would bring certainty to consumers about the legality of the content that they post on the platform. Canada introduced a similar exception in 2012, which could serve as a model for the European legislation.*

### ***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:

*When it comes to matters related to the online world, limiting the geographical scope of any given legislation on the basis of the actual physical establishment of a particular service provider seriously reduces the effectiveness of the legislation in question. The issues around the applicability and enforceability of the current EU data protection legal framework towards US companies are a case in point. Similar issues arise with regards to the AVMSD. The fact that operators established outside the EU but targeting EU audiences are at the moment not subject to the AVMSD is a major loophole in the regulatory scheme, which has negative effects on consumer protection and distorts competition to the detriment of EU companies.*

**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:

*The current geographical scope creates uncertainty from the point of view of consumer protection. This is because it is not always clear where the actual service is based and thus whether the operator in question is falling under the scope of the Directive or not.*

*In terms of competitive disadvantages, the fact that operators established outside of the EU do not have to comply with the same rules as the EU operators distorts competition in favour of the foreign operators.*

***Preferred policy option:***

- a)  *Maintaining the status quo*
- b)  *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.*

- c)  *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:**

*In order to ensure a uniform level of protection for consumers and a level playing field for audiovisual media services, the Directive should also apply to operators established outside the EU when they target their services to consumers within the Union (including 'free services' which are based on monetising the secondary use of consumers' data). Otherwise, there is the risk that operators will systematically establish themselves outside of the EU, in countries where regulation is less stringent, in order to circumvent EU rules.*

*In order to define when a company is targeting consumers in a member state, specific criteria shall be included in the Directive, similar to the criteria used by the European*

*Court of Justice to substantiate the targeting activity criterion for consumer contracts in EU Private International Law (e.g. Pammer v Alpenhof C-585/08).*

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

### **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:

*The rules on commercial communications are fundamental from a consumer perspective. This type of communications provide a big part of the economic base of the audiovisual industry and advertising based business models are predominant on the Internet.*

*Protecting consumers against excessive or inappropriate advertising is now more important than ever, especially since digital technology allows for new advertising techniques that target consumers more efficiently and more directly.*

*BEUC therefore believes that the rules on commercial communications are still relevant. However, there should be an in depth assessment as to whether linear and non-linear services should be subject to the same rules, due to the fact that the division between linear and non-linear is increasingly blurry and that the viewing habits of consumers are changing. The TV is still the main screen in most households but mobile devices and on demand services are on the rise, especially among the younger generations. In addition to reviewing the scope of the existing rules, in some cases such as the advertising of certain products to children (e.g. products high in fat and sugar), stricter rules are necessary.*

**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

*Current provisions to restrict the advertising of products high in fat, salt and sugars to children are not sufficient. Because childhood obesity is an issue that needs to be urgently addressed it is critical to ensure adequate EU rules are in place. Encouraging media service providers to develop codes of conduct regarding inappropriate advertising of 'unhealthy' food and drinks in or accompanying children's programmes are no longer suitable. While most EU member states have encouraged media providers to develop codes of conduct marketing of unhealthy food is still widespread as depicted by our members' [research](#). A first loophole is that not all food and drink companies signed up to codes of conduct. Secondly even when companies agreed to abide by codes of conducts the rules set by industry are poorly defined and the enforcement of voluntary codes is deficiently monitored. As a consequence companies can bypass their own rules while still advertising the fact that they actively play their part in protecting children from marketing of unhealthy food. To effectively protect children from marketing of unhealthy food mandatory rules detailing what food can and cannot be advertising as well as how they are marketed should apply. Such criteria should be defined by governments, not industry, as huge variations exist between what companies and public health authorities define as acceptable in terms of marketing to children. This was reflected in the variations existing between WHO Europe set of nutrient profiles to restrict marketing to children published in March 2015, which was developed in collaboration with EU Member States, and criteria used by companies under the EU Pledge to determine what food can and cannot be advertised to children based on their overall nutritional value. As such BEUC and its members firmly support a governmental approach that will ensure children grow up in an environment free from intensive junk food marketing. The publication of a unique set of nutrient profiles by WHO Europe to restrict marketing to children shows that an EU wide approach is feasible. An EU integrated framework is highly desirable as companies operate in a single market selling similar foods marketed the same way to all children across the EU. At the end of the day EU wide rules covering all forms of digital media should protect children – defined as up to 16 – from advertising of unhealthy foods (For more information on BEUC's proposals to ensure children are protected from marketing of unhealthy food you can consult the 'Marketing to children' section in [BEUC Nutrition Position Paper](#))*

*In addition to this, an essential element of media convergence is the provision of personalised content offers to the consumer. Despite the potential benefits in terms of convenience and consumer choice, such personalisation raises serious data protection concerns. Any personalisation or individualisation of services usually requires the collection and cross-linking of personal data. Full respect for consumer privacy and*

*compliance with the data protection legislation must be essential pre-conditions for the provision of media services in the EU.*

***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)*

**PLEASE EXPLAIN YOUR CHOICE:**

*The level of consumer protection must not be lowered down under any circumstance. On the contrary, tightening certain rules, in particular on advertising of products high in fat, salt and sugars, is necessary for the reasons explained above. Better monitoring of the compliance with the rules set out in the Directive is also necessary. Moreover, the extension of qualitative advertising rules to non-linear services should be considered in order to improve the effectiveness of the Directive and take into account the modern trends in media consumption. The time spent on the Internet continues to grow and non-linear audiovisual media services are important advertising platforms, particularly for advertisers looking to reach specific consumer groups and for profiling. Special attention should also be given to the complex issues arising from commercial communications on non-linear services such as YouTube, which host different types of audiovisual content and do not fall under the scope of the Directive in a straightforward manner. Non-linear services that can be considered to replace traditional audiovisual services should be subject to the same level of regulation when it comes to commercial communications. This does not necessarily mean the exact same rules but advertising on those services needs to be properly regulated to ensure an adequate level of consumer protection.*

*In line with our previous comments, self and co-regulation could potentially play a role in the area of commercial communications, but not instead of legislation and only if strict criteria are met.*

*It is also necessary to assess the interplay between the provisions of the AVMSD and the provisions on commercial communications included in the Unfair Commercial Practices Directive (UCPD), which applies as Lex Generalis.*

### **3. User protection and prohibition of 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:

*We believe that these rules are still relevant and are touching very sensitive issues that are part of fundamental core values laid out in the EU Treaty and international laws on human rights. The way these issues are approached and the kind of measures implemented often differs from one Member State to another but it is fundamental to ensure that the overall level of protection all across the EU stays high. That being said, non-linear services that largely host user generated content pose particular challenges and we have doubts as to the effectiveness of existing measures in this area. We also believe that the promotion of media literacy has an important role to play in relation to these aspects of the Directive.*

**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:

*Once again, in our opinion the most problematic issues come up when we look at non-linear services, especially those that mostly host user generated content and thus largely fall outside of the scope of the Directive. Despite the existence of filters and settings that can be tweaked by the users and the possibility to report harmful content so it is taken down, protecting viewers in these media platforms is a great challenge and it is necessary to balance different issues at stake, including the exercise of fundamental rights.*

**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:

N/A

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

YES –  NO –  NO OPINION

COMMENTS:

*This is difficult to judge in our opinion, as in some cases it might have been effective while in others it might have not.*

**What are the costs related to implementing such requirements?**

Costs:

COMMENTS:

N/A

**What are the benefits related to implementing such requirements?**

Benefits:

COMMENTS:

N/A

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

YES –  NO (If yes, please explain below)

COMMENTS:

*As previously stated, in our opinion most of the problems are posed by services currently falling outside of the scope of the Directive, where it is extremely difficult to control what content minors might be exposed to.*

*In terms of on-demand services, in some Member States like Germany we understand that there has been controversy around parental control filters. Such filters need approval by the national regulatory authority and the industry has lobbied for lowering the approval threshold, something that consumer organisations opposed.*

***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)*

f)  *Other option (please describe)*

PLEASE EXPLAIN YOUR CHOICE:

*Without prejudice to the rules on the liability of intermediaries laid out in the eCommerce directive, we believe that it should be assessed whether it is possible to extend current*

*AVMSD rules applying to on-demand services to platforms providing audiovisual user generated content. We understand the technical difficulty of regulating these kind of platforms and the need to preserve openness and freedom of speech in the Internet. However, minors become active Internet users from a very early age and platforms like YouTube are very frequently their main source for audiovisual content and entertainment. Measures to adapt the content which is accessible on these platforms according to the age of the viewer should be introduced and effectively implemented. On the other hand, it should be further assessed whether extending the scope of the directive to certain types of non-audiovisual content is also necessary. Minors should be adequately protected from the appearance of inappropriate pop-ups or still images while watching audiovisual content on non-linear services.*

#### **4. Promoting European audiovisual content**

##### **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:

N/A

**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:

N/A

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

YES –  NO –  NO OPINION

COMMENTS:

*Consumers want access a broad choice of audiovisual content. Access to films produced in other EU countries is an important element to promote cultural diversity.*

**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

*N/A*

**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:

*N/A*

**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:

*N/A*

***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 Productions<sup>4</sup> (instead of "an adequate proportion"). For on-demand services, further harmonisation could be envisaged: by introducing one compulsory method (among e.g. the 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:*

*N/A*

## **5. Strengthening the single market**

### ***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:

*N/A*

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

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

COMMENTS

*The current approach seems appropriate for dealing with EU based operators but the most popular audiovisual service providers are often not European, but US companies.*

<sup>4</sup> Works transmitted within 5 years of their production.

*Determining under which jurisdiction these companies fall can prove challenging. It raises questions as to how far foreign operators are bound to European rules and whether the country of origin principle is well-suited for creating a level-playing field in a converged world.*

**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: *N/A*

Estimate of benefits: *N/A*

**COMMENTS:**

*N/A*

**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:**

*It should be explored whether on certain areas it would make sense to switch to a 'country of destination' principle, so everybody addressing EU viewers would be subject to the same rules.*

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

### **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:

*N/A*

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

YES –  NO (If yes, please explain below)

COMMENTS:

*N/A*

***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).*

PLEASE EXPLAIN YOUR CHOICE:

N/A

## 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:

N/A

**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:

*Consumers often face geo-blocking and territorial restrictions when they try to have access to TV channels online. Due to copyright issues certain audiovisual content remains restricted alongside national borders, thus depriving consumers of effective choice and creators of the opportunity to reach new audiences. Access to cross-border pay TV services is another area where consumers are facing restrictions, the ongoing competition investigation against Sky TV and six major US film studios (Disney, NBC-Universal, Paramount Pictures, Sony, Twentieth Century Fox and Warner Bros) is a good example of this issue. Overall, we welcome the initiatives that the Commission is undertaking to boost consumer's access to legal services for audiovisual content both online and cross-borders.*

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

YES –  NO (If yes, please explain below)

COMMENTS:

N/A

***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:

N/A

### **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:

N/A

**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

N/A

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

YES –  NO

Cost:

COMMENTS:

N/A

***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

*Article 30 of the United Nations Convention on the Rights of People with Disabilities recognises the right to "enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats".*

*It is estimated that over 81 million adults in Europe have hearing defects and 30 million people serious sight impairment. These people are unable to interact with digital content unless it is made accessible. People with disabilities are facing various problems such as the lack of audio descriptions, subtitling and captioning. Digital technology makes it possible to eliminate communication barriers and facilitate access to information but, if it is not accessible, it itself become a barrier. Although the technology allowing for example to create automatic subtitling of videos and live events transmitted online or to automatically generate voices for audio description already exists, many consumers cannot benefit from them due to copyright issues and technical measures limiting the exercise their rights. Disabled people should be able to access all the services available to others.*

**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:

*N/A*

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

YES –  NO (If yes, please explain below)

COMMENTS

*N/A*

***Preferred policy option:***

a)  *Maintaining the status quo*

b)  *Other options (please describe).*

PLEASE EXPLAIN YOUR CHOICE

*N/A*

**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:

*N/A*

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

YES –  NO (If yes, please explain below)

COMMENTS

N/A

***Preferred policy option:***

a)  *Maintaining the status quo*

b)  *Other options (please describe).*

PLEASE EXPLAIN YOUR CHOICE

N/A

***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:

N/A

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

YES –  NO (If yes, please explain below)

COMMENTS

N/A

***Preferred policy option:***

a)  *Maintaining the status quo*

b)  *Other options (please describe).*

PLEASE EXPLAIN YOUR CHOICE

N/A



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