

Conclusions

High-level Group of Regulatory Authorities in the Field of Broadcasting – Incitement to hatred in broadcasts coming from outside of the European Union – 17 March 2005

1. The Presidents of national Authorities in the Field of Broadcasting coming together for the first time following the initiative of the European Commissioner for Information Society and Media, Viviane Reding, recall their commitment to the principles of liberty, democracy and respect for human rights as recognised in Art. 6 of the EU treaty and which are enshrined in the Charter of Fundamental Rights of the European Union, as well as in the European Convention for the Protection of Human Rights and Fundamental Freedoms. In the light of the freedom of expression and the media, the interdiction of television channels or other audiovisual media can not be justified except by very serious violations of the principles of our democratic, pluralistic and open society.
2. The regulators and the European Commissioner agree that a more effective fight against incitement to racial and/or religious hatred in audiovisual content originating in EU countries or countries outside the EU is an issue which absolutely and urgently requires closer co-operation between Broadcasting Regulatory Authorities in the Member States, in candidate countries and in countries of the European Economic Area. The recent cases of the Al Manar channel and Sahar 1, forbidden by the French authorities, confirm the need to establish effective and co-ordinated measures.
3. The regulators and the European Commission recall that European legislation clearly prohibits broadcasts inciting to hatred for reasons of race, sex, religion or nationality (Art. 22 a of the “Television without Frontiers” Directive). This requirement also applies to third country broadcasters, if they use a frequency, satellite transmission capacity or an uplink to a satellite appertaining to a Member State.
4. The regulators and the European Commission recall that, in conformity with the principle of subsidiarity, the competent authorities in the EU Member States are responsible for the application of the rules of the “Television without Frontiers” Directive, while respecting the fundamental rights.
5. The regulators and the European Commission reaffirm the importance of strict application of the jurisdiction criteria and the rules referring to public order as set down in the “Television without Frontiers” Directive to programmes received in the European Union and originating from third countries. Member States and their relevant authorities are responsible for ensuring that all the channels transmitted by broadcasters falling under its jurisdiction comply with the provisions of the “Television without Frontiers” Directive.

6. In conclusion, the regulators and the European Commissioner decide to implement the following measures:

a. Information exchange regarding channels authorised in Member States in order both to determine which Member State has jurisdiction and to ensure effective application of European legislation.

In the short term, such information exchanges will be made more effective by establishing a contact point within each national authority. The contact point should provide the necessary information to other authorities and the European Commission regarding channels under its jurisdiction. In particular, Member States to whom a satellite capacity appertains must be in a position to provide information on all the channels using this capacity.

In the medium term, interconnection of Member States' channel authorisation databases should be foreseen or any other appropriate means of rapid and efficient information. In this context, co-operation with the European Platform of Regulatory Authorities (EPRA) would be important and useful and the Commission will do what it can to support these initiatives.

b. Mutual and immediate information exchange between Member States' audiovisual regulators, together with close co-operation in cases where an authorisation is withdrawn or a channel is banned to allow in particular consideration of the reasons behind the withdrawal.

c. Establishment of a restricted Internet forum, reserved for regulators and the European Commission, with a view of providing the necessary information and in particular deepening exchanges of views on cases considered problematic by the competent authorities.

d. Continued follow-up by the high level group of the presidents of the regulatory authorities in the field of broadcasting presided by the European Commission, complemented by meetings at expert level.

7. Furthermore, the regulators and the European Commissioner underline their desire for close co-operation with the relevant authorities in third countries, for instance through the Mediterranean Regulators' Group. They invite the competent authorities to declare the fight against audiovisual content inciting to religious and/or racial hatred a priority in their relations with third countries.

8. The European Commissioner for Information Society and Media, has indicated its intention to ensure that this problem is taken into account, considering technological developments, in all relevant European policies, notably external relations, in particular pre-adhesion policy, neighbourhood policy and the Barcelona process.

The Commissioner has further invited the regulators to make their contributions to an improvement of the European legal framework in the context of the revision of the Television without Frontiers Directive.