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Confederation of Danish Industries' Position to the Review of the TV Without Frontiers Directive (TVWF) - Making Europe's online content more competitive.

The review of the TVWF directive is an important task and an opportunity to stimulate business and economic growth in Europe. The directive should secure that business in general, and media service providers in particular, are having the best opportunities to provide digital and audiovisual content and services.

Comparing price levels in the Telecommunications Industry, it is evident that the Nordic countries have some of the lowest mobile prices in Europe - Denmark having the lowest - and that the Nordic countries are world leaders on mobile penetration and mobile services. A major reason for this leading position is the limited intervention from regulators and the largest possible extent of "self-regulation". Based on this mind-set, Confederation of Danish Industries (DI) wants to underline that the least possible regulation in the media area will ensure the broadest, best, and most cost-efficient media services. With regards to "non-linear services", DI prefers no regulation at all, as this area is covered elsewhere.

Consequently, DI supports that linear services are only covered by the TVWF directive as far as self-regulation has no effect. Conversely, non-linear - i.e. on-demand - services should be kept out of television regulation, as the e-trade directive in DI's opinion forms an excellent foundation for the regulation of on-line services. Therefore there is no need to implement another set of regulations for IP-based services.

The reform of the TVWF should be a perfect opportunity to demonstrate commitment to the Commission's better regulation principles for growth and jobs in the EU region, and particularly in the media industry, and should be accompanied by a more deregulated environment unless it is clear that self-regulation does not work.

Background

The review of the TVWF claims to support the i2010 programme, and focuses on how to create jobs and growth within the EU, particularly within the media industry. This is only possible if some of the complicated regulatory constraints are avoided and a more liberal regulation is introduced.

The TVWF directive builds on a fundamental principle in the EU, i.e. the country of origin principle. In common commerce the principle means that it is possible, for instance, to buy Italian shoes in Denmark, without the Italian manufacturer having to worry about Danish legislation as long as the EU rules are observed.

Within the television area, this principle reaches much further. Here, it ensures free movement of information across borders - a core element in "public debate/information" and a cornerstone of the views of DI.

DI's Position

The Scope of the Directive

The general view of DI/ITEK is that linear media services should be subject to as easy regulations as possible, if self-regulation proves insufficient. The regulations must, however, consider a fair and even competition as well as the protection against discrimination of minorities and against instigating hatred based on race, sex, religion, or nationality, as laid down both in the proposed Audio Visual Media Services directive (the AMS directive) and the e-trade directive.

As the e-trade directive already regulates the non-linear services, and as this directive to a large extent regulates on-line media according to the same rules as proposed in the AMS directive, DI does not find it necessary to expand the area regulated by the television directive. Therefore, non-linear services should be kept out of the framework of the AMS directive.

The Country of Origin Principle

DI/ITEK supports the existing principle as the foundation for the successful European media industry. Regulation based on the country of origin principle is consistent with the principles of the inner market. The country of origin principle secures freedom of information and thus the human rights of the European citizens. Industry and market forces have the best conditions when the surrounding society at the same time is pervaded by the same degrees of freedom, including free access to send and receive information.

The country of origin principle is important because:

- Without the country of origin principle there would be no regulations, and media providers could choose to transmit from countries outside the EU which may have less strict regulations, thereby being able to exploit another profitable business model.
- Several audio-visual services are present in Europe
- The principles of free movement in the inner market must be observed
- A homogenous regulation for media providers must be assured, which will be able to operate more effectively. Dealing with only one regulating authority is vital for the efficiency in media providers, and also guarantees that they will observe the rules, especially when different channels transmit to different countries. This would be difficult if the providers were to comply with the laws of different countries.
- It is crucial that the citizens in every country are able to receive information and programmes without intervention from the member state in which they live.

Advertising Rules

DI/ITEK supports the proposed regulation and calls for a even more flexible approach to the regulation for placing commercial breaks. Obviously, a certain degree of protection of minors should continue to exist.

- DI/ITEK proposes to remove the 35 minutes rule for movies, and to allow isolated commercial breaks in all programmes, except childrens programmes.

Commercials income on TV is necessary to ensure a diverse choice of programmes as well as their quality. In spite of increasing subscriptions, the income from commercials are still vital for the large supply of TV channels offered to the consumers.

Product Placement

DI/ITEK strongly supports the proposal on product placement, which will substantially contribute to the financing of European productions and improve their ability to compete with productions made outside the EU memberstates.

In order for European TV and programmes to be able to compete on the international market, we will have to turn to alternative sources of income which will help the industry grow and at the same time will give better programmes for the viewers.

Sports Rights and the Right for Short News Reports

DI/ITEK finds that the existing rules of article 3a need to be reconsidered - the list of events of major importance for society and the proposed rules on free access to news reports will be detrimental to the competition between TV companies and will prevent sports organizations from obtaining market price for their rights, which will reduce the surplus that should be used to promote sports.

Piracy

DI/ITEK realizes that the Audiovisual Media Services Directive does not cover piracy or copyrights, however notes that these are crucial points for the business models by which TV broadcasters operates. Whether it is about illegal access to contents services or copying of material that is protected by copyright, for instance computer programmes - piracy remains a general problem. And this problem also causes less European productions, less opportunity to compete with non-EU productions, and consequently less jobs in the EU memberstates. DI/ITEK therefore calls upon the EU to examine the relevant directives and ensure that the penalty for piracy is set high enough to deter present and future pirates.

Best regards

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