

Comments on the Public Consultation on the Revision of the “Television without Frontiers” Directive.

Rules Applicable to Audiovisual Content Services

Extension of the Directive to web-casting and radio

While agreeing that different media have different characteristics and should be regulated in different ways that cater for these same characteristics, one immediately adds, that there are similarities which give rise to common aspects that can be covered by same regulatory regime. Besides, it does not make sense to have a Directive covering TV but no directive to cover radio and web-casting. The questions are: Should there be different directives for different media? Should there be one directive outlining the common aspects followed by different sections specifically made for different media?

These different media have enough common elements, both from the perspective of free movement rights and from the protection of human dignity aspects, to make one common directive feasible. The different characteristics of each medium have to be respected and catered for. There should not be one strait jacket trying to fit all. Web-casting, for example, is more amenable to citizen journalism than the other media. Nothing should be done to limit this characteristic.

It is also important to bear in mind that the content of on-demand services is continuously altered by the service provider and thus will render the monitoring of said services problematic. This problem would extend to all those obligations mentioned in the Issues Papers relating to advertising (Issues Paper 4), European productions (Issues Paper 3) and the like if applied to non-linear services.

Among the common aspects from the perspective of human dignity one can note the following: protection of consumers in general and minors in particular; prohibition of hate language; the control of age, gender and racial stereotypes and the granting of the right of reply.

Malta agrees with the proposals set forth in paragraphs 2.1.1 and 2.1.2 of Issues Paper 1 relating to the power of Member States to suspend the broadcast of harmful content and the Jurisdictional competence of Member States with respect to content deriving from non-Member States. The need to control content of the latter type is even more pressing in the context of the constant threat being imposed on Member States by terrorism.

With respect to the definition of ‘audiovisual content services’, Malta notes that this definition is still wide and lacks clarity. A clearer definition is hence called for.