

Public consultation on the revision of the ‘Television without Frontiers’ Directive

The Newspaper Society’s submission on Issues Paper for the Audiovisual Conference in Liverpool:

Rules applicable to Audiovisual Content Services

The Newspaper Society represents the regional newspaper industry. Its members publish around 1300 regional and local newspaper titles throughout the United Kingdom. Its publications are read by around 40 million adult readers – approximately 83% of the adult population - and in surveys that audience has rated it the most trusted media. The regional press also attracts around £3 billion advertising revenue.

The regional newspaper industry’s core business is the provision of local news and information to local communities. Its titles circulating in different regions, cities, towns and neighbourhoods across the UK are complemented by different media platforms, including radio and internet services, to deliver content. The regional press is investing and innovating, exploring the opportunities given by technological changes so that its services continue to be relevant and attractive to its local consumers. Their content remains firmly grounded in the communities that they serve, by providing news and information, comment, opinion and entertainment, investigating and reporting, leading campaigns, stimulating debate and action and by enabling businesses to reach their local customers effectively and efficiently. Our research and experience confirms that people’s interests and activities remain firmly rooted in their local communities. The regional press therefore intends to build upon this long heritage of local content services to the local community through both traditional and the latest technological means.

Regional newspaper companies are exploring the innovative application and use of technology in the development of their content services and evolving new forms of the uniquely close dialogue that has always been maintained between local newspaper and local readers. It is vital that the regional newspaper industry’s ability to sustain its crucial role is not undermined by unnecessary regulatory controls, whether over content or ownership. The information, communications and media systems made possible by technological developments should be given time to evolve rather than having their development disrupted by premature and unnecessary regulatory intervention.

The existence, scope and form of any new controls such as those suggested raise fundamental issues of freedom of expression and press freedom. In our view, these should remain a matter for the general, national UK law only. There would have to be very strong grounds to justify any extension of EU competence and to justify intervention. Such grounds are lacking.

The regional newspaper industry therefore opposes the options for proposed extension of scope of the Television Without Frontiers Directives in ways set out in 1.1 in respect of both radio and online services of any description. The option of a comprehensive framework for any form of delivery of audiovisual content as defined

would inevitably catch newspaper companies' websites, their online titles and services.

The European Union does not have competence to regulate the content of newspapers. There is no justification for any attempt to control newspaper content, in print or online, by extension of the Television Without Frontiers Directive.

There is no imperative for international uniformity of press content and approach. The regional newspaper industry's print and online local newspapers are designed for the local readers, local audiences and local consumers at whom they are targeted. Its titles and services are based in their local communities and provide their voice. Their staff are members of those same communities. Irrespective of the media platform by which their services are delivered, regional newspaper companies abide by the national law, the same laws on freedom of expression that govern their readers, producing content in a form and way acceptable to their readers.

Editorial and advertising content of any print or online publication is already regulated by the complex interaction of national statute law and common law. In addition, the regional newspaper industry is a voluntary party to the robust UK systems of industry self regulation governing editorial and advertising content. It has always opposed statutory and co-regulatory controls over press content because of the threat to press freedom.

No pressing need has yet been demonstrated for new special controls over internet content, irrespective of audiovisual content, above and beyond the existing constraints of national law. The UK newspaper industry strongly supported the UK Government's recent communications legislation that deliberately avoided the imposition of special controls or broadcasting controls over internet publication including newspaper websites. The industry continues to oppose any extension of broadcasting controls to the internet by national or European legislation. It also maintains its opposition to any other new statutory or co-regulatory or mandatory self-regulatory controls over internet content. No new harms have emerged nor evidence of obstacles to economic development produced that require the introduction or extension of stricter EU controls.

Newspaper companies' publications, whatever the medium, require freedom to report the news and stimulate debate within the framework of national law, which is determined in accordance with that state's citizens' traditions and outlook. UK law already sets restrictive parameters through a wide range of laws. Where warranted, the UK industry has voluntarily undertaken self-regulation.

Such existing legal and self-regulatory controls already cover the issues raised by the Commission such as pornography and excessive violence, identification of advertising and commercial communications. These are bolstered by the practical, technological, educational and other protective means that have been developed and are constantly evolving.

Yet UK law recognises that editors should have the discretion to decide questions of taste, decency and the protection of human dignity in relation to their publications' news coverage and other content. The UK's domestic law and the newspaper

industry's editorial self-regulatory system allow them the freedom to do so. Newspapers do not just consider the law and the newspaper industry self-regulatory codes. They have proper regard to their readers' reactions in judging publication.

Imposition of new EU originated legal controls governing right of reply, taste, decency, protection of minors and associated human dignity (1.2 and Issues Paper Protection of Minors Human Dignity and Right of Reply) could all impose unwarranted restrictions upon regional newspaper companies' ability to report the news and stimulate debate, receive and impart information, comment and opinion, in pursuance of its democratic role in ways that hitherto been both lawful and accepted under UK national law.

The UK industry also opposes the introduction of any statutory right of reply for online and print versions of the press into domestic law (1.2 and Issues Paper Protection of Minors and Human Dignity Right of Reply). The opportunity of reply requirements of the self-regulatory system, operation of specific legal defences under defamation law and the ease of direct response via the Internet already provide flexible effective mechanisms, without unacceptable legal constraints upon press freedom. The UK Government has recently reaffirmed its opposition to right of reply legislation. There is no justification for the introduction of new editorial controls under domestic UK law by EU imposition of right of reply legislation for audiovisual communication services. Its introduction would introduce all the difficulties of definition, problems attendant upon any application to comment and opinion as well as fact, dangers of enforcement and remedies leading to state and judicial intervention into press content, complicated by the possibility of differing regulatory requirements for different versions of the same publication, perhaps exacerbated by determination of questions of applicable law.

The Newspaper Society therefore submits that the TV without Frontiers directive need not and should not be extended in the ways proposed. Any revised directive should not catch newspaper companies' websites, require newspaper companies to register their services or be subject to any jurisdiction or applicable law other than their country of origin.

The Newspaper Society is a member of the European Newspaper Publishers Association (ENPA) and also supports the view put forward by ENPA.

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