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Position Paper on Television Without Frontiers - Protection of Minors

AmCham EU welcomes the opportunity to respond to the Commission's Issue Paper on protection of minors.

The Commission details measures it envisages in an indicative new Article 22 applying to non-linear services. The Consultation provides for a restriction on "distributing" of harmful content and encourages "filtering". AmCham EU believes that the Commission needs to give considerably more thought to this subject. Recognising that the value chain for non-linear services is quite different from linear services, AmCham EU believes that self regulatory measures are sufficient and further regulatory intervention is unnecessary.

As regards "distributing", this reflects the role of the traditional broadcaster who not only puts together programming but also works with transmission service providers to distribute the channel to the consumer. In the non-linear world, distribution often means little more than ensuring that content is hosted by someone with sufficient bandwidth to meet expected demand. Although steps could be taken to verify age, there are no guaranteed online methods at present. It is unclear what liability the Commission's proposals would expose audiovisual content providers to.

The difficulties become more severe with respect to "filtering". This is something that does not seem obvious for an audiovisual content service provider to provide. Various tools to protect children are available through Internet Service Providers (ISPs) providing consumer services or in the form of third party software, but without supporting a regulatory mandate to provide such tools in any event. We note that such tools and these measures are outside of the scope of this consultation.

On the other hand, the classification of content is within the scope of the consultation and is clearly related to effective filtering. AmCham EU supports the principle of content labelling to inform consumers such that they make informed choices for themselves and for their families. Content labelling, however, must be developed to suit the characteristics of the underlying service, the filtering technologies with which it must work and the expectations of the consumer. Consumers expect different degrees of protection according to which media they engage with. For example, as linear TV services have no system of parental controls and have a pervasive presence in the household, parents expect a depth of content description greater than that employed in non-linear services, where there are more complementary tools available for parents.

This may change as non-linear and linear services evolve, but there no case at the moment for a common approach to labelling and content description.

Right of reply

With regards to the proposal to extend a formal right to reply to non-linear services, the Issues Paper does not contain sufficient detail as to how this would be expected to operate in practice. Does the right of reply have to be presented in the form of moving images, or can it take some other form? If the original offending audiovisual content is contained within, for example, a multimedia blog, is a right of reply necessary if there is scope for reactions by those following the blog, or does the original poster have to do something more, and if so, what? Greater clarity on the Commission's thinking in this area would be appreciated, but the sort of questions that immediately arise should be considered as effective arguments for reliance on self-regulation in this area.

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