

Revision of the 'Television Without Frontiers' Directive

5 September 2005

A response from mediawatch-uk welcoming the opportunity to contribute to the European Commission's consultation on revisions to the Television Without Frontiers Directive.

Issue Paper 5: Protection of Minors and Human Dignity; Right of Reply

Issue 1: Protection of Minors

The overriding concern should be, as stated in Article 22, that broadcasters "do not include programmes which might seriously impair the physical, mental or moral development of minors, in particular that that involve pornography or gratuitous violence".

The truth is that this Article has been largely ignored in Britain and "pornography and gratuitous violence", and other objectionable material, have become commonplace on some television channels especially after 9.00pm. We acknowledge that the Office of Communications has sanctioned pornographic TV channels for breaches of the Programme Code but around 30 such channels continue to operate *in accordance* with existing conditions set out in the TVWF Directive and also within requirements established by the regulator. Moreover, there has been a steady process by which ever more explicit and graphic depiction of this material has been declared suitable for younger age groups, especially with regard to film classification. The British Government, in its recently announced attempts to criminalise violent and abusive pornography on the Internet, has stated that depictions of consensual sexual activity, milder forms of bondage and humiliation, which are legal and acknowledged to be "commonplace in pornography", are NOT extreme enough to be under consideration in new offences now being proposed. This seems to us to fail to fulfil the requirements of the TVWF Directive.

The London School of Economics, in a study of 1500 nine to 19-year-olds published this year, found that this age group are routinely exposed to pornography when using the Internet. The Royal College of Nursing at its recent conference were told that increasing numbers of teenagers are indulging in sex and that sexual diseases are soaring in that age group.

We contend, therefore, that aspirations to protect the moral development of minors are failing spectacularly and remedial action is urgently needed.

Evidently such technical measures as presently exist, are not working and the European Commission must re-think this aspect of Article 22 as it relates to harmful content. The application of Article 22 in Member States is a matter of real concern and plainly it is not enough to rely on “systems of filtering, age verification, labelling and classification of content”. The only sure way to protect minors, if that really is the highest priority, is to bring forward effective sanctions against those who market and transmit, by whatever means, “pornography and gratuitous violence”.

Issue 2: Incitement to Hatred

We agree that Member States shall ensure that broadcasts do not contain any incitement to hatred on the grounds of race, sex, religion or nationality. It is in the public interest that effective safeguards should be in place. We question whether Member States should be responsible for defining this notion subjectively and we can see no good reason why these should not be enshrined, for example, in the Universal Declaration of Human Rights. We agree with the need to “carefully balance the fundamental right to free speech” but the balance has to be with corresponding responsibilities which ought to take precedence. Too often responsibilities are rejected or ignored by those with power to impose their “free speech” on everyone else. The Directive should redress the balance by requiring member states to give more power, by means, for example, of a Right of Reply in all media, to consumers harmed or offended by people who fail to observe the terms of domestic regulation and the European Directive thereby abusing their power.

Issue 3: Right of Reply

mediawatch-uk agrees with the “provision of a Right of Reply” in respect of non-linear audiovisual services. We believe such a right is essential where misrepresentation and invasion of privacy occurs. This is especially true now of some Internet sites where accepted notions of fairness, honesty, integrity and objectivity are absent. Accordingly, we welcome this proposal and look forward to its introduction.

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