



“My aim is for Europe’s audiovisual content industry to flourish under one of the most modern and flexible sets of rules in the world”



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Why Europe needs to modernise its TV without Frontiers Directive

The European Commission proposes to modernise Europe’s “Television without Frontiers” rules because most of them date from 1989, and, even though revised once in 1997, many of them have been overtaken by technological progress and market developments. They were designed for an era when EU Member States had only 3-4 mainstream TV channels each. The key issue that rule makers felt they had to address in 1989 was the advent of satellite TV, which, potentially at least, could cross any frontier. Cable TV existed in just a handful of countries, no-one watched TV-style content on the internet and few had heard of (then) exotica such as digital TV, broadband internet access or digital subscriber lines. Even technicians would have doubted that TV signals would one day travel by phone lines.

The sheer pace of technological progress has led to a need to modernise many of the TV without Frontiers rules substantially. New technological developments include digital “convergence” of communication networks, media content and devices, the advent of personal video recording, and on-line delivery of audiovisual content. Web TV, interactive TV, and movies on mobile telephones are now available on demand to most Europeans and hence are competing on an almost equal footing with a plethora of “traditional” TV programmes broadcast in fixed schedules.

Consumers today have a much wider choice of TV and TV-style content, such as sports and premium film content, delivered via a huge variety of digital cable and satellite channels. And choice doesn’t just mean zapping among channels. Today’s consumers use their TVs to interact with broadcasters in ways unheard of in 1989, such as choosing content that they like, voting, competing in TV shows, and contributing to charities. Besides interacting via traditional television, many consumers now choose to buy “video on demand”, delivered via cable, fibre or digital subscriber line. The growth of Internet Protocol TV in many countries is driven by demand for premium content, for which consumers are willing to pay. Other emerging technologies, such as mobile web streaming, are also expected to transform the audiovisual media services market in the coming years.

So the key issue that regulators – both national and European – need to address today is that rules devised for one-to-many broadcasting are being rendered obsolete by the shift to one-to-one, on-demand services. For the European Commission, according to our principle of better regulation, enhanced end-user control means less need for regulation, which is why the heart of our proposal for a new, modernised Television without Frontiers directive is a substantial deregulation of audiovisual rules. In addition, the European Commission sees a need for creating a fair regulatory framework and a level playing field for all audiovisual media services.

Today, audiovisual service providers supplying the same content as traditional broadcasters are often regulated very differently, solely because they use a different mode of delivery. Often, such differentiated regulation is justified by the different degree of user control. However, where core societal values – such as protection of minors or the fight against racial hatred – are concerned, such differentiation is hard to justify. Why, for instance, should the same film be subject to differing child protection rules, or none, depending solely upon whether it's a scheduled TV broadcast, or whether you downloaded it?

To keep pace with technological developments, the new, modernised TV without Frontiers directive defines, in the Commission proposal, rules for audiovisual services as such, not for the technology that delivers them. At the same time, the Commission proposal distinguishes between *linear services* (e.g. scheduled broadcasting via traditional TV, the internet, or mobile phones, which “pushes” content to viewers), and *non-linear services*, such as non-scheduled broadcasting, video-on-demand and web-based news, which the viewer “pulls” from a network. Today's TV broadcasting rules would apply to linear services, albeit in a modernised, more flexible form, whereas non-linear ones would be subject only to a basic set of minimum principles, e.g. to protect minors and prevent incitement to racial hatred.

The proposed modernisation of the TV without Frontiers directive recognises that content is a main driver for on-demand services. It ensures that freedom to supply such services throughout the EU single market is not restricted unnecessarily by national rules. For this purpose, the new directive, just like the present Directive, will build on the “country of origin” rule, which ensures that only one EU Member State has jurisdiction over any given media service provider, regardless of whether services are delivered in a linear or non-linear way. This rule gives service suppliers the legal certainty they need to build a strong, competitive and integrated European audiovisual industry. At the same time it will enhance media pluralism, by opening up national markets to more competition from other EU countries.

I believe that this proposed reform of the EU's audiovisual rules, which has undergone extensive consultations over the past two years with audiovisual content providers, internet service providers, telecom operators and other interested parties, ensures that wherever possible, red tape is removed, existing rules are made more flexible and co-regulation and self-regulation become the

prominent means of implementation. At the same time, vital features of the Television without Frontiers Directive have been reaffirmed: protecting children from harmful content and human dignity from racial hatred; safeguarding consumer interests; facilitating access to our shared cultural heritage for artists, entrepreneurs and consumers; recognising that advertising is the financial basis of a strong and diverse “free to air” audiovisual sector; and promoting pluralism of audiovisual media by encouraging cross-frontier content provision. I expect a constructive dialogue on the Commission proposal in the months to come, in particular with the European Parliament and the Council of Ministers, which will now deliberate, in the further legislative process, on the future of Television without Frontiers in the EU.

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