



5

Why and how Europe seeks pluralism in audiovisual media

The European Union is committed to promoting media pluralism as well as the right to information and freedom of expression. This is enshrined in Article 11 of the Charter of Fundamental Rights. Even though these fundamental rights cannot extend the EU's very limited powers in the field of media pluralism, they nevertheless have to be kept in mind by EU rule makers when drafting new rules for audiovisual media services for the next decade. This is why the European Commission attaches particular importance, in its proposal for a new TV without Frontiers directive, to promoting media pluralism with the modernised rules.

Very often, the debate on media pluralism is too closely focused on competition policy. From the consumer viewpoint, the most essential aspect of media pluralism is that it ensures a large choice of different content, reflecting different points of view and different cultures. European citizens should be free to form their own, well-informed opinions, based on a broad appreciation of the subject acquired from a diversity of sources.

The major thrust of the present, but also of the new TV without Frontiers directive, is to stimulate the free movement of audiovisual media content within Europe by allowing all providers of audiovisual media content – whether delivered in linear or non-linear form – to benefit from the “country of origin”-principle. On the basis of this principle, the existing TV without Frontiers Directive has already led to a

huge increase in the number of channels being broadcast, and so to increased consumer choice. At the start of 2004 in EU-15 over 860 channels with potential national coverage were being broadcast via terrestrial, satellite or cable networks (there were 660 such services as little as three years ago).

The growth of other market sectors for linear audiovisual media services has been even more rapid. By the beginning of 2004, there were about 220 regional TV channels in operation. Today, there are also more than 160 TV broadcast services available in one or more of the 25 EU Member States, when these originate from another Member State or from a non-EU country. (In 2001, there were only 68 channels of this kind within the EU-15).

The Commission proposes that the new TV without Frontiers Directive should also extend the benefits of the “country of origin” principle to new non-linear (on demand) services, to improve their prospects for commercial success. This principle would be applied, with a minimum of necessary harmonisation, to on-demand services across Europe. It would allow audiovisual media service providers to offer content complying with the laws of their own Member State for broadcasting in other Member States, without having to vary this content to meet the laws of each Member State concerned. This is expected to increase choice, diversity and investment in European audiovisual media industry and to lead to the provision of “Audiovisual Media Services without Frontiers”.

The availability of a huge number of channels does not in itself ensure availability of different opinions and views. The new TV without Frontiers directive therefore has three major measures which contribute to this more “qualitative aspect” of consumer choice.

Firstly, the new TV without Frontiers directive includes an obligation for Member States to guarantee the independence of national regulatory authorities, so as to ensure that the new rules are implemented. An independent regulatory authority may not be part of a governmental administration, and must have its own “apparatus” and resources which do not serve any other body. In general, independent regulatory authorities have the power to award broadcasting licences. They must supervise audiovisual programmes’ compliance with European and national rules. Central to this is the protection of minors, human dignity, non-discrimination and the enforcement of advertising rules. Independent regulators also develop and establish the rules themselves (e.g. codes of practice in the field of advertising). The ability of national regulatory authorities to exercise their powers impartially and transparently is crucial to ensuring media pluralism.

Secondly, media pluralism will be strengthened, according to the Commission proposal for a new TV without Frontiers directive, by the right of broadcasters to receive “short reporting”. This will ensure that all providers have access to footage of newsworthy events for incorporation in their own news coverage (especially access to news footage from other countries). This proposed right of access is intended to complement provisions on “events of major importance to society” that are reserved for free TV.

Thirdly, the new directive continues to promote content from independent audiovisual production companies in Europe. A specific study¹ shows that these measures have already had a very positive impact: content made by independent producers accounts for 33% of transmission time or roughly 50% of all works produced within Europe. This is an important contribution to media pluralism.

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¹ Study on the impact of measures concerning the promotion of the distribution and production of TV programmes (Community and national) provided for under Article 25 (a) of the directive on television without frontiers:
http://europa.eu.int/comm/avpolicy/stat/studi_en.htm.