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Ministry of Culture Sweden

The Swedish Government's response to the consultation on Directive 2010/13/EU on Audiovisual Media Services: A framework for media in the 21st century

General remarks

The Swedish Government welcomes the initiative to launch a consultation on the functioning of the Audiovisual Media Services Directive.

As a first and general observation, it should be underlined that the Directive establishes a very delicate balance between different policy areas and fundamental interests of a democratic society. Any future revision of the Directive must unconditionally be made in absolute and full respect of freedom of expression and freedom of information as expressed in European and national legal frameworks. The audiovisual sector is a large and important part of the creative industry with strong ties to cultural and media policy. The preservation and strengthening of the internal market for this sector is an important aspect of the strategy for the digital single market. As audiovisual services are influential and important for the functioning of a democratic society, cross-border services will likely be difficult to accept for Member States and the public if the Directive does not include a well-balanced level of content regulation and consumer protection.

The Swedish Constitution gives high protection to freedom of expression and media independence. Freedom of expression and freedom of information are fundamental rights contained in the Instrument of Government. In addition, the Fundamental Law on Freedom of Expression provides particularly strong and detailed protection for freedom of expression in, inter alia, television, sound radio transmission and certain internet sites. It can also be noted that these provisions are of great parliamentary and public interest in Sweden.

Digitalisation, convergence and the increased mobility that follows, increases the importance of internet for the media sector. The Swedish Government would in that context like to underline its firm

commitment to preserve the open internet where the EU regulation concerning net neutrality must be abided by.

The scope of the Directive and the question of a level playing field

The last revision added new services to the scope of the Directive. Services falling under the scope of the Directive are defined as such audiovisual services under the editorial control of a service provider. Editorial control is and will remain valid in order to define services falling under the Directive.

For the consumer, the distinction between linear and non-linear services is not always clear and will probably become even less clear as media services are consumed on more varied and mobile devices. However, there are still valid reasons to have a graduated approach in the Directive. Differences as to individual control, impact on society as well as how advertising can be placed, remain between linear and non-linear services. Suggestions to align provisions for linear and non-linear services should be carefully considered from this general point of view.

Protection of the consumer – especially young people

The Swedish Government would like to see restrictive qualitative provisions in the Directive in relation to advertising, especially advertising aimed at young people and children. This is especially important in relation to advertising for alcohol, where it is difficult to maintain stricter national legislation. The rules in the Directive restricting advertising of alcohol should be in line with the policy priorities identified by Member States as important components in a planned new and comprehensive EU-strategy to tackle harmful use of alcohol and alcohol related harm. On the European level, general provisions are preferable to detailed provisions. In line with the reasoning above, some differences in regulation may remain valid for linear and non-linear services.

As convergence within the media sector continues and local and national media services increasingly compete with European and global services for viewers' attention and advertising revenues, effective European self-regulatory initiatives will become more important.

Protection of minors

The Swedish Government is firmly committed to work with protection of minors from harmful media effects. The provisions of the Directive serve as the framework for this work, with a possibility for more detailed rules on national level, depending on culture, the national media landscape and other specific national conditions. It is difficult to see that agreement could be reached about more detailed regulation on the European level and it could even risk becoming counter-productive due to national differences. There is also a serious risk that provisions would unduly restrict freedom of expression and information. We have a strong

conviction that the most effective way to protect minors is to provide tools and training opportunities to increase their capability as informed media users.

Promotion of European Productions

National and European cultural and media policy should focus on the conditions of the European media production sector. It is important that there is an active policy to promote cultural diversity and cross-border distribution and demand of European production to ensure sufficient market reach. However, the Swedish government does not believe that common quota rules or quota-like provisions are the appropriate policy answer. European quota rules clearly risk violating media independence and freedom of expression. Member States should be given the possibility to work nationally with policy tools adapted to the national media market and its' needs.

The Swedish Government hopes to see provisions in Art 13, 16 and 17 being revised to allow a more effective and flexible national approach. All provisions to strengthen the European audiovisual production industry must take into account the risk of affecting European providers negatively in relation to companies without such requirements.

In this context the Swedish Government would also like to remind of the importance of practical licensing solutions within the European copyright framework, as well as the responsibility to ensure the right conditions for public service companies in a converged media landscape.

Strengthening the single market

There is a firm Swedish commitment to contribute to the creation of a well-functioning and more integrated digital single market. The Directive with its country-of-origin principle of jurisdiction is an important tool to ensure that the European audiovisual sector can meet the competition of global players. However, there is scope for improvement in the provisions of this part of the Directive.

Several cases have shown that there are problems related to applying the criteria for establishment as well as the provisions for co-operation between authorities where transmissions or services are directly targeting one Member State from another.

Strengthening media freedom and pluralism, increasing access to information and accessibility to content for people with disabilities

The media market is changing rapidly as are consumer preferences and behaviour. However, media policy goals such as media freedom and media pluralism remain as important, although policy tools will probably be adapted as the markets change. All proposals for further content regulation must be balanced against the need to ensure that Member

States have the possibility to work actively to preserve media pluralism and promote the independence of media.

It is essential for a well-functioning European internal market for audiovisual services that there are independent media authorities that can co-operate closely. The remit for and organisation of media authorities will differ in Member States depending on national administrative and political systems. However, lists of criteria that can help ensure the independence of authorities can serve as important guidance for Member States.

At present, we are not convinced about the necessity of attempts to add provisions to ensure “findability” of particular services in the Directive.



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