



# Procedure file

Basic information		
INI - Own-initiative procedure	<a href="#">2012/2132(INI)</a>	Procedure completed
Implementation of the Audiovisual Media Services Directive		
See also <a href="#">2009/0056(COD)</a>		
Subject		
3.30.01 Audiovisual industry and services		
3.30.02 Television, cable, digital, mobile		
3.30.04 Radiocommunications, broadcasting		
8.50.01 Implementation of EU law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>CULT</b> Culture and Education		29/05/2012
		PPE <a href="#">BORYS Piotr</a>	
		Shadow rapporteur	
		S&D <a href="#">KAMMEREVERT Petra</a>	
		ALDE <a href="#">SCHAAKE Marietje</a>	
		Verts/ALE <a href="#">TRÜPEL Helga</a>	
		ECR <a href="#">MCCLARKIN Emma</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>ITRE</b> Industry, Research and Energy	The committee decided not to give an opinion.	
European Commission	<b>IMCO</b> Internal Market and Consumer Protection		30/05/2012
		S&D <a href="#">GARCÉS RAMÓN Vicente Miguel</a>	
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		
	<b>JURI</b> Legal Affairs		18/09/2012
		S&D <a href="#">CASTEX Françoise</a>	
	Commission DG <a href="#">Communications Networks, Content and Technology</a>	Commissioner	KROES Neelie

Key events			
04/05/2012	Non-legislative basic document published	<a href="#">COM(2012)0203</a>	Summary
05/07/2012	Committee referral announced in Parliament		
21/02/2013	Vote in committee		
28/02/2013	Committee report tabled for plenary	<a href="#">A7-0055/2013</a>	Summary
20/05/2013	Debate in Parliament		
22/05/2013	Results of vote in Parliament		
22/05/2013	Decision by Parliament	<a href="#">T7-0215/2013</a>	Summary

22/05/2013	End of procedure in Parliament		
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## Technical information

Procedure reference	2012/2132(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
	See also <a href="#">2009/0056(COD)</a>
Legal basis	Rules of Procedure EP 54
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	CULT/7/09941

## Documentation gateway

Non-legislative basic document		<a href="#">COM(2012)0203</a>	04/05/2012	EC	Summary
Committee draft report		<a href="#">PE500.577</a>	28/11/2012	EP	
Amendments tabled in committee		<a href="#">PE504.031</a>	18/01/2013	EP	
Committee opinion	IMCO	<a href="#">PE500.516</a>	23/01/2013	EP	
Committee opinion	JURI	<a href="#">PE501.905</a>	23/01/2013	EP	
Committee opinion	LIBE	<a href="#">PE500.739</a>	31/01/2013	EP	
Committee report tabled for plenary, single reading		<a href="#">A7-0055/2013</a>	28/02/2013	EP	Summary
Text adopted by Parliament, single reading		<a href="#">T7-0215/2013</a>	22/05/2013	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2013)519</a>	18/09/2013	EC	

## Implementation of the Audiovisual Media Services Directive

**PURPOSE:** to present the first report from the Commission on the application of Directive 2010/13/EU "Audiovisual Media Service Directive (AMSD)" covering the period 2009-2010.

**CONTENT:** the report comprises two parts:

- the first part of the report looks retrospectively at the implementation of the Directive, including questions about the effectiveness of qualitative advertising rules in a sector where the offer and individuals' response to advertising are changing.
- the second part addresses, in a prospective way, the influence of important technological changes on the regulatory framework as traditional broadcasting and internet rapidly converge. By the end of 2011 notifications had been received from a total of 23 Member States, twenty of which amounted to full transpositions.

Generally, the report concludes that the European regulatory framework for audiovisual media services has served citizens and businesses well.

- For business, it has provided the stable legal framework, which media service providers need to make business decisions. Since its creation, the regulatory framework has allowed the market to grow from a small number of service providers to more than 7,500 broadcasters today. It has also enabled the development and growth of video-on-demand services, the estimated number of on demand services in the EU amounting to at least 650 as of January 2012. In February 2012 the number of online video-on-demand is estimated at 251 in the EU.
- From a citizen's perspective, access to channels and choice of audiovisual services has increased significantly. In 2009, television-viewing time increased in almost all Member States, with the daily average ranging from 145 minutes in Austria to 265 in Hungary.

The Commission considers, nevertheless, that some points need attention:

Audiovisual commercial communications: in this field, several of the issues involved should be further monitored and assessed in order to strengthen the effectiveness of the rules having regard to their objective.

- The proportion of advertising and teleshopping spots on television may not exceed 12 minutes per hour. The Commission monitored advertising practices in eight Member States during the reference period. In a number of Member States the 12-minute limitation of advertising spots is regularly breached. The Commission intends to continue monitoring Member States' compliance with the 12-minute rule and, if necessary, initiate infringement procedures.
- The monitoring of advertising practices also revealed a number of issues in the area of commercial communications concerning sponsorship, self-promotion and product placement. This shows a need to clarify the rules governing the various forms of commercial communications.
- In the Member States monitored, alcohol advertising represents between 0.8% and 3% of overall advertising activity on audiovisual media services based on the total number of spots broadcast over the monitored period. Very few cases of clear infringements have been found. However, a significant proportion, more than 50%, of the advertising spots contained elements which might be linked to some of the characteristics banned by the AVMSD, although they fell short of constituting a clear-cut infringement.
- With regard to advertising targeting children, content analysis of the 100 most frequently broadcast advertising spots showed that the Directives provisions on the protection of minors in advertising were seldom contravened. As with alcohol advertising, because of the detailed wording of the relevant provisions, there are few infringements of the AVMSD. Nevertheless, it does appear that advertising techniques geared towards minors are frequently used in television advertising. Five Member States prohibit advertising in childrens programmes. Four Member States impose a partial ban and seven Member States prohibit the showing of sponsorship logos in childrens programmes.

In view of the above, the Commission will update in 2013 the Interpretative Communication on certain aspects of the provisions on televised advertising in the Television Without Frontiers Directive. Further investigations are required to assess the impact of commercial communications, especially for alcoholic beverages, on minors as regards exposure and consumption.

In the more specific area of audiovisual commercial communications in childrens programmes for sweet, fatty or salty foods or drinks, Member States must encourage audiovisual media service providers to develop codes of conduct regarding inappropriate audiovisual commercial communications in childrens programmes. The effectiveness of such codes of conduct must be further assessed.

Technological progress: the report stresses that foreseeable technological developments might blur the boundaries between broadcasting and over the top delivery of audiovisual content. As a result, the current regulatory framework set by the AVMSD may have to be tested against evolving viewing and delivery patterns, taking into account related policy goals such as consumers' protection and the level of media literacy.

As the possible impact on the market and the regulatory framework is not yet totally clear, a full assessment of the current and future situation should be made. The Commission launched an open debate with stakeholders about "over-the-top" delivery of audiovisual content and will deepen this analysis in the coming months in view of a policy document on connected TV.

## Implementation of the Audiovisual Media Services Directive

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The Committee on Culture and Education adopted the initiative report by Piotr BORYS (EPP, PL) in follow-up to the Commissions first report on the Implementation of the Audiovisual Media Services Directive (AVMSD) covering the period 2009-2010.

Members remind the Commission of its commitment to the smart regulation agenda, and the importance of making timely and pertinent ex-post controls of EU legislation in order to manage the quality of regulation throughout the policy cycle and note that the Commission has submitted its application report with a significant delay.

The report notes that the Member States have implemented the AVMSD in a particularly diverse manner and that the country of origin principle, when properly applied, gives broadcasters important clarity and certainty about their operational arrangements.

Members deplore that the Commissions application report does not assess the need for a possible adaptation of the AVMSD in view of these findings, as required by the Directive.

They strongly support a technology-neutral approach, in view of evolving viewing and delivery patterns, to facilitate increased consumer choice and call, in this regard, for a full impact assessment of the current state of play on the market and of the regulatory framework.

- Accessibility (Article 7): Members point out that the Commissions report neither fully addresses the issue of accessibility, nor assesses the effectiveness of the implementation of the appropriate provisions in individual Member States.

They call on the Commission to monitor the situation regarding the provision of media services to people with disabilities and the elderly, stressing the need for the Member States to encourage broadcasters to gain a better understanding of their needs. They point to the need for wider accessibility of programmes, in particular those rendered via on-demand services, through further developments in, inter alia, audio description, audio/spoken subtitles, sign language and menu navigation, notably of electronic programme guides (EPGs).

They believe that Article 7 of the AVMSD should be reworded in order to include stronger, binding language, requiring media service providers to ensure that their services are made available to people with disabilities.

- Exclusive rights and short news reports (Articles 14 & 15): Members call on the Commission, in its next report on the application of the AVMSD, to assess whether the Member States have implemented this directive in a way that preserves the necessary and existing balance between safeguarding the principle of freedom of access to information, especially on events of high interest to society, and the protection of rights holders.

Welcoming the approach taken by the Commission and the European Court of Justice in relation to the interpretation of the AVMSD, they call for a continued broad interpretation of the term events which are regarded as being of major importance for society, including sports and entertainment events that are of general interest, and encourage the Member States to draw up lists of such events.

- Promotion of European audiovisual works (Article 13): Members highlight that while most Member States comply with the rules relating to the

promotion of European works, priority is still given to national works, whilst the percentage of independent works on TV is on the decline. They consider that the data submitted by the Commission in its report are insufficient for the reaching of suitable conclusions.

They call on the Member States to take effective measures to promote better synergies among regulatory authorities, audiovisual media services providers and the Commission, so that EU films can reach a wider audience both within and beyond the EU on linear and non-linear services. They also recommend strengthening the role of the European Audiovisual Observatory, which they consider would be an appropriate solution for collecting data concerning the promotion of European audiovisual works.

- Protection of minors: Members recognise the efforts made by the advertising industry and members of the EU Pledge, to respond to the AVMSDs call for codes of conduct for commercial communications, accompanying or included in childrens programmes, of foods and beverages high in fat, sugar and salt. They stress that co-regulatory and self-regulatory initiatives, particularly in the field of advertising that targets minors, represent an advance on the prior situation because they offer a means of reacting more swiftly to developments in the rapidly changing world of the media. They note, however, that such initiatives may not always be sufficiently effective in all Member States and that they should be regarded as complementary to legal provisions in realising the aims of the AVMSD, particularly in an online context.

They invite the Commission to consider how the basic requirements of the AVMSD applicable to non-linear services can be extended to other online content and services which are currently out of its scope, and what steps need to be taken to create a level playing field for all operators and call on it to present to Parliament the results of its considerations no later than 31 December 2013.

- Advertising (Article 9): Members note that the 12-minute hourly advertising limit has been breached in some Member States and urge the Member States concerned to implement fully, correctly and without delay the provisions of the AVMSD in this respect.

They also urge the Commission, while monitoring compliance with existing rules setting out qualitative and quantitative stipulations on advertising, to have an eye towards future challenges, e.g. that of Connected TV, in terms of the competitiveness and the sustainable financing of audiovisual media services.

Members welcome the Commissions intention to update its interpretative communication on certain aspects of the provisions on televised advertising in 2013.

- Media literacy: Members take note of the findings by the Commission with regard to the level of media literacy in the Member States. They note that access to channels, and the choice of audiovisual services, has increased significantly and call on the Commission and the Member States to promote media literacy for all EU citizens through initiatives and coordinated actions, in order to increase the critical understanding of audiovisual media services.

- Future challenges: Members regret that the Commission only partially carried out its reporting task in keeping with its obligation under the AVMSD, and call for an interim evaluation before the next Commission application report.

They call on the Commission to monitor closely the development of hybrid services in the EU, in particular Connected TV, to establish in its Green Paper on Connected TV the various issues they raise and to pursue those issues through public consultation.

Lastly, Members also call on the Commission to address, in particular, the uncertainties surrounding the use of the term on-demand audiovisual media services and, with an eye both to greater consistency in EU legislation affecting on-demand audiovisual services and to likely developments in media convergence, to establish a clearer definition of the term so that the regulatory aims of the AVMSD can be achieved more effectively.

## Implementation of the Audiovisual Media Services Directive

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The European Parliament adopted by 593 votes to 69, with 14 abstentions, a resolution on the Implementation of the Audiovisual Media Services Directive (AVMSD) covering the period 2009-2010.

Parliament reminds the Commission of its commitment to the smart regulation agenda, and the importance of making timely and pertinent ex-post controls of EU legislation in order to manage the quality of regulation throughout the policy cycle and notes that the Commission has submitted its application report with a significant delay.

The resolution notes that the Member States have implemented the AVMSD in a particularly diverse manner and that the country of origin principle, when properly applied, gives broadcasters important clarity and certainty about their operational arrangements. It calls on the Commission to encourage the consistent and full implementation of the AVMSD in the Member States and to ensure that all due account is taken of the specific definitions contained in the recitals to this Directive when it is transposed into national law. It deplores the fact that the Commissions application report does not assess the need for a possible adaptation of the AVMSD in view of these findings, as required by the Directive.

Parliament strongly supports a technology-neutral approach, in view of evolving viewing and delivery patterns, to facilitate increased consumer choice and calls, in this regard, for a full impact assessment of the current state of play on the market and of the regulatory framework.

- Accessibility (Article 7): Parliament points out that the Commissions report neither fully addresses the issue of accessibility, nor assesses the effectiveness of the implementation of the appropriate provisions in individual Member States.

It calls on the Commission to monitor the situation regarding the provision of media services to people with disabilities and the elderly, stressing the need for the Member States to encourage broadcasters to gain a better understanding of their needs. It points to the need for wider accessibility of programmes, in particular those rendered via on-demand services, through further developments in, inter alia, audio description, audio/spoken subtitles, sign language and menu navigation, notably of electronic programme guides (EPGs). It therefore believes that Article 7 of the AVMSD should be reworded in order to include stronger, binding language, requiring media service providers to ensure that their services are made available to people with disabilities.

- Exclusive rights and short news reports (Articles 14 & 15): Parliament calls on the Commission, in its next report on the application of the AVMSD, to assess whether the Member States have implemented this Directive in a way that preserves the necessary and existing balance between safeguarding the principle of freedom of access to information and the protection of rights holders.

Welcoming the approach taken by the Commission and the European Court of Justice in relation to the interpretation of the AVMSD, it calls for

a continued broad interpretation of the term events which are regarded as being of major importance for society, including sports and entertainment events that are of general interest, and encourages the Member States to draw up lists of such events.

- Promotion of European audiovisual works (Article 13): Parliament highlights that while most Member States comply with the rules relating to the promotion of European works, priority is still given to national works, whilst the percentage of independent works on TV is on the decline. It considers that the data submitted by the Commission in its report are insufficient for the reaching of suitable conclusions.

It calls on the Member States to take effective measures to promote better synergies among regulatory authorities, audiovisual media services providers and the Commission, so that EU films can reach a wider audience both within and beyond the EU on linear and non-linear services. It also recommends strengthening the role of the European Audiovisual Observatory, which it considers would be an appropriate solution for collecting data concerning the promotion of European audiovisual works.

- Protection of minors: Parliament recognises the efforts made by the advertising industry and members of the EU Pledge, to respond to the AVMSDs call for codes of conduct for commercial communications, accompanying or included in childrens programmes, of foods and beverages high in fat, sugar and salt. It stresses that co-regulatory and self-regulatory initiatives, particularly in the field of advertising that targets minors, represent an advance on the prior situation. It notes, however, that such initiatives may not always be sufficiently effective in all Member States and that they should be regarded as complementary to legal provisions in realising the aims of the AVMSD, particularly in an online context.

Parliament invites the Commission to consider how the basic requirements of the AVMSD applicable to non-linear services can be extended to other online content and services which are currently out of its scope, and what steps need to be taken to create a level playing field for all operators. It calls on the Commission to present to Parliament the results of its considerations no later than 31 December 2013.

- Advertising (Article 9): Parliament notes that the 12-minute hourly advertising limit has been breached in some Member States and urges the Member States concerned to implement fully, correctly and without delay the provisions of the AVMSD in this respect.

It also urges the Commission, while monitoring compliance with existing rules setting out qualitative and quantitative stipulations on advertising, to have an eye towards future challenges, e.g. that of Connected TV, in terms of the competitiveness and the sustainable financing of audiovisual media services. It highlights, in particular, the need to monitor commercial formats devised to circumvent this restriction, especially surreptitious advertising, which can confuse consumers.

Parliament calls on the Commission (i) to submit, as soon as possible, the clarifications needed of the issues it has identified in the field of commercial communications concerning sponsorship, self-promotion and product placement and (ii) to analyse the effectiveness of the regulations in place and to monitor compliance with the rules on advertising aimed at children and minors.

Parliament welcomes the Commissions intention to update its interpretative communication on certain aspects of the provisions on televised advertising in 2013.

- Media literacy: Parliament takes note of the findings by the Commission with regard to the level of media literacy in the Member States and that access to channels, and the choice of audiovisual services, has increased significantly. It stresses that, in order to achieve a true digital single market in Europe, further efforts are therefore needed in the field of improving media literacy among citizens and calls on the Commission and the Member States to promote media literacy for all EU citizens through initiatives and coordinated actions.

- Future challenges: Parliament regrets that the Commission only partially carried out its reporting task in keeping with its obligation under the AVMSD, and calls for an interim evaluation before the next Commission application report.

It calls on the Commission to monitor closely the development of hybrid services in the EU, in particular Connected TV, to establish in its Green Paper on Connected TV the various issues they raise and to pursue those issues through public consultation.

Lastly, Parliament calls on the Commission to address, in particular, the uncertainties surrounding the use of the term on-demand audiovisual media services and to establish a clearer definition of the term so that the regulatory aims of the AVMSD can be achieved more effectively.