



FAMILIE & MEDIER
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Straume, 31. januar 2006

FELLES EUROPEISK UTTALE OM TV-DIREKTIV

På vegne av lytter og seer-organisasjoner i Europa, oversender vi vårt bidrag til EUs Ministerråd i forbindelse med revisjonen av det europeiske fjernsynsdirektivet. Uttalelsen ble nylig vedtatt på et møte i EURALVA - The European Alliance of Listeners and Viewers Associations, i Lisboa.

Vi ber om at Norge også noterer seg dette bidraget og har det med seg i det videre arbeidet med saken.

EURALVA har hatt representanter med i alle fokusgrupper som har arbeidet med revisjonen av direktivet, og vi har arbeidet aktivt for å forsvare publikums/forbrukernes interesser.

Organisasjonen EURALVA organiserer alle lytter og seer-organisasjoner i Europa, uansett livssyn og ideologisk ståsted. Det er en nærmere presentasjon av alliansen på www.euralva.org

Med vennlig hilsen

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Kopi: Kulturkomiteen i Stortinget
Medietilsynet
Kringkastere og distributører av kringkasting

PROPOSED REVISIONS TO THE TVWF DIRECTIVE

SUBMISSION BY

THE EUROPEAN ALLIANCE OF LISTENERS AND VIEWERS ASSOCIATIONS (EURALVA)

Agreed in Lisbon, 16 January 2006

The European Alliance of Listeners and Viewers Associations (EURALVA) welcomes the proposal of the European Commission to transform the Television Without Frontiers Directive into an Audiovisual Media Services Directive (Directive on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services).

EURALVA recognises the need to

- build on the *country of origin principle* in the Television Without Frontiers Directive;
- include *audiovisual commercial communication* within the scope of the Directive
- maintain the rights of receiving states to continue to protect the physical, mental and moral development of minors,
- develop *moves towards co-regulation* and
- where no supranational regulation exists to co-ordinate the activities of *national regulatory authorities* in Member States.

However,

- given the changing technological and commercial landscape, and
- the increased number of Member States

EURALVA considers that

- the Commission's proposals are likely to reduce the co-ordination of provisions laid down by law, regulation and administration, and in particular,
- to reduce the protection afforded to the public in general, and viewers in particular, from exploitative, or otherwise undesirable actions, on the part of audiovisual media companies

unless the Contact Committee is empowered to ensure a degree of harmonisation across the European Union when implementing arrangements to

- establish co-regulatory regimes;

and can ensure that the public in general, and viewers in particular,

- can readily identify the country of origin, and the relevant regulatory regime, of an audiovisual media service;
- can receive short reports of events of public interest from all EU broadcasters;
- are protected against exploitative commercial exploitation and are not misled by audiovisual commercial communications, in particular those which have been sponsored or include product placement; and
- are easily and cheaply able to exercise a right of reply or its equivalent.

EURALVA therefore proposes the following amendments to the Commission's proposals.

Duty to Co-ordinate the Protections Afford to Users of Audiovisual Media Services

Insert an additional Recital No. 4 and renumber all subsequent recitals

“The consequent need to co-ordinate, and where possible harmonize, the protections afforded to viewers of television broadcasting services and users of audiovisual media services.”

The Establishment of Co-regulatory Regimes

(a) The proposed article 3(3) is amended to read:

Member States may encourage co-regulatory regimes in the fields co-ordinated by this directive. Where possible, these regimes shall be co-ordinated on an EU-wide basis. In every case, the powers of these regimes shall be clearly specified in legal form and franchised to by the relevant Member States(s) concerned for a limited but renewable period. In every case, the powers of these regimes and the manner in which they exercise them shall be such that they are broadly accepted by all the main stakeholders.

Surreptitious Advertising and Product Placement

(b) The definition of surreptitious advertising in article 3(h) should be amended to read:

“Surreptitious advertising” means the representation in words or images of goods, services, the name, the trade mark or the activities of a producer of goods or provider of services in programmes, either when such representation is intended by the broadcaster to serve advertising, or when it might mislead the public as to its nature. Such representation is considered to be intentional in particular if it is done in return for payment of similar consideration.

(c) The proposed definition of “product placement” in article 1(k) should be amended to read

“Product placement” means any form of audiovisual commercial communication, of which the public has not been given prior notice within the relevant programme or service, which consists of the inclusion of or reference to a product or service or trademark thereof so that it is featured within an audiovisual media service, normally in return for payment or similar consideration.

(d) Article 3(h)(4) should be amended to read:

“News and current affairs programmes or services shall not be sponsored and not contain product placement. Audiovisual media services for children and documentaries shall not contain product placement.”

Insertion in Programmes of Advertising or Teleshopping Slots

(e) The proposed wording for Article 11(1) shall be amended as follows:

Member States shall ensure, where advertising or teleshopping is inserted during programmes that the narrative and dramatic structure of the programmes and the rights of the right-holders are not prejudiced.

Identification of the Competent Regulatory Authority

(f) The proposed article 3 (c) (d) shall be amended as follows:

“(d) the competent regulatory authority, and where possible, the geographic and electronic mail address of the regulatory authority.”

The Right to Receive Short reports of Events of Public Interest

(g) In order to implement recitals 26 and 27 of the proposed directive, a new sub-clause is added to clause 3a.

“(4) Member States shall ensure that providers of audiovisual media services which are licensed under their jurisdiction and exercise exclusive rights concerning an event of public interest shall grant to other broadcasters, and intermediaries where they acting on behalf of broadcasters, the right to use short extracts for the purposes of general news programming on fair reasonable and non-discriminatory terms taking account of the exclusive rights. Such terms must be communicated in a timely manner before the event of public interest takes place to give others sufficient time to exercise exclusive rights concerning an event or public interest.”

The Responsibility of the Contact Committee to Monitor and where possible to Harmonise, the Rights of the Public to Information, to be Represented, along with other Stakeholders in Co-regulatory Regimes, and to Exercise a Right of Reply

(h) Article 23 (a)(2) shall be amended by the addition of sub-clauses (g), (h), (i), (j) and (k), as follows:

“(g) to establish, and where possible to harmonise, a common means by which viewers can identify the country of origin and the responsible regulatory authority by every provider of an audiovisual media service;

“(h) to establish, and where possible to harmonise, the manner in which Member States require viewers to be informed of the existence of a sponsorship agreement and/or product placement in all audiovisual media services.

“(i) to ensure, where possible, both common principles and a harmonised approach to the establishment of co-regulatory regimes with commercially-funded broadcasters, advertisers and other forms of audiovisual commercial communication, such as product placement, in which representatives of viewers and users of audiovisual services are recognised as stakeholders;

“(j) to establish common arrangements which limit the exclusive rights to broadcasts of events of major public interest, and ensure that all broadcasters can include in their broadcast short reports of all events of public interest.

“(k) to ensure, and where possible harmonise, the manner in which viewers and other members of the public may exercise their right of reply, as provided in article 23.

Article 23(b) (1) shall be amended to read:

Each Member State shall establish a national regulatory authority, or authorities, that are competent to deal with all the matters in this Directive. Each state shall guarantee the independence of its national regulatory authority and ensure that they exercise their powers impartially and transparently.