

Viviane Reding has issued a strong defence of the European Commission's proposals to update the Television without Frontiers Directive. They will lift the burden on business, she says, not introduce internet regulation by the back door

TVWF revision: **less** regulation not more

The Commission's in-depth consultation process on the revision of the Television Without Frontiers Directive (TVWF) started back in 2003. The consultation triggered a large debate. I am very glad about this. The debate gave rise to many passionate statements, sometimes largely inspired by fantasy.

I have listened, always with interest, sometimes with amusement. Now, the listening phase is over, and the time for work on concrete texts has come. So far, nothing has been decided. But decisions will be drafted in the coming weeks and presented to the European Parliament and the Council at the end of the year. So it is time for you to relax a little bit and to regain some energy for the debate on concrete texts, not on speculation.

This European Commission under President Barroso strives for better regulation. This implies careful political and economical impact assessment of key proposals, screen-

ing of proposals to check their compatibility with the Lisbon strategy and rollback of unnecessary or outdated legislation if not in line with our competitiveness and jobs goals. Co- or self-regulation has an important part to play especially in this field. The modernisation of the legal framework for audiovisual services in the single market is an integral part of this commitment to better regulation. At the same time, it contributes to the Lisbon agenda and is a crucial component of the new i2010 policy strategy adopted by the Commission in June.

Pictures in general and moving pictures combined with sound in particular go right to the heart of how people think, act and decide. The importance of television and of audiovisual works in our economies and societies, combined with the need to ensure the free movement of these services in Europe, are the reasons why specific rules on television were adopted in 1989 with the TVWF directive.

NEW TIMES, NEW CHALLENGES

The audiovisual world since then has changed and will carry on changing: one of the latest developments is delivery on mobile platforms. This is why we have to adapt our rules for audiovisual content so that they continue to answer to societal needs, help the creative industry to develop and thus foster cultural diversity. I am determined to find the best possible, future-proof balance between a light burden on industry, in order to boost Europe's competitiveness and to encourage successful cross border services on the one hand, and on the other hand the pursuit of undisputed public policy objectives, such as protection of minors or the fight against racial hatred.

I have heard and read here and there, that Brussels intends to regulate the Internet, to introduce new red tape. Frankly, this is nonsense! Never ever has the Commission had such a foolish idea! But let me ask you some questions: is anyone in favour

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of child pornography in the new media? Who stands for the freedom to spread incitement to racial hatred in the new media? It is the duty of the Commission to propose a framework under which these shared European values are protected. But I have no intention to "regulate the Internet"!

CREATING A SINGLE MARKET

It is first and foremost in the interest of our industry and services to have a clear set of Europe-wide rules. The alternative is a patchwork of national rules and case law, contradicting each other and making cross border business increasingly difficult for both providers and users. This is why I want to have better regulation. I am talking about one single, basic framework instead of at least 25 different legal regimes. This is the condition for an effective country of origin principle – for me a cornerstone of the European audiovisual policy. This would obviously be an opportunity in terms of legal certainty and of opportunities offered to the industry to provide crossborder services and develop new business models. It would mean fewer burdens and less regulation, not the opposite!

Let me be clear, I am convinced that nascent markets and services should have the biggest possible freedom to develop. That is why, for example, I have convinced the national telecom regulators in the EU to have a "light touch" approach on Voice over IP.

This "light touch" should also be the rule for new audiovisual content services. And it works: see how these issues are being dealt with in the United Kingdom, with the Associa-

tion on Television on-demand (ATVOD) entrusted with the duty to self-regulate video on demand services. I see three main options for the future legal framework for audiovisual content.

Option one is, not to change anything. It says: let's consider that the rules adopted for the audiovisual landscape of 1989 will remain valid in the converged audiovisual landscape of 2010. Option two is to tidy up the 1989 Directive as we already did in 1997. Option three is to propose a new directive, future-oriented towards the needs of both the industry and the consumers in the near future. Such a new audiovisual content directive would:

1) reaffirm the values we share as Europeans;

2) adopt a "light touch" for new audiovisual services, while giving them the opportunity to take advantage of the country of origin principle;

3) modernise and simplify rules in the field of traditional television.

It is obvious that a Directive can only provide high-level objectives and principles. It does not replace implementation by national Governments and Regulators, and co- and self-regulation with industry and other stakeholders. This last point is very important: whilst it remains desirable to pursue some key public policy objectives like the protection of values, this must be achieved in the on demand environment by encouraging the industry to take ownership and responsibility.

What I want to present now is my assessment and my conclusions with regard to the various contributions the Commission received on some of the issues at stake, and in

particular on the scope of the directive, advertising rules and values.

LEGAL FRAMEWORK

Let me begin with some remarks on the scope of the future legal framework for audiovisual services. It seems to me that nearly everyone agrees that ensuring a level playing field among platforms delivering similar audiovisual content falls into the remit of the European lawmaker. In any case, technological change and convergence lead to a multiplication of services. It is necessary to have a technologically neutral regulatory approach, taking into account the degree of choice and control of the consumer. That is why we make a clear distinction between linear and non-linear services and I am glad to see that many of you support this approach. We will of course have to test this against the reality of a complex and fast-moving market.

ADVERTISING

The Issues Paper on advertising addressed many different subjects and I want to deal with the most topical of them.



Viviane Reding at the Cannes film festival

Photo: © European Community, 2005



Tony Blair – here meeting EC President José Manuel Barroso - has made reviewing the TVWF a priority for the UK's EU presidency

The issue of product placement has been very controversial. My opinion on this issue is that one should be honest towards consumers. Product placement is a reality, but we lack clear rules. Consumers should have the right to know what kind of content they are watching. Our goal should be to increase consumer information, while acknowledging that product placement is a form of advertising, and that it should not interfere with editorial independence. Furthermore, having clear rules for product placement would secure new revenues for Europe's audiovisual industry, contribute to boost our creative economy and thus to reinforce cultural diversity.

While speaking about advertising, I want to insist again that this is an area where co- and self-regulation have made enormous progress in many of the EU member states. Look for example at the Charter put in place by the European Advertising Standards Alliance.

The increasing sense of responsibility of the industry could in my view lead to deregulation in the field of advertising. One possibility is a relaxation of the rules concerning insertion and daily advertising

limits. I take note that member states which have expressed a view on the "issues paper" support the need to give more freedom to broadcasters in that respect.

OFFENSIVE CONTENT

Concerning protection of minors and incitement of hatred, there seems to be quite a broad consensus on the current balance foreseen in the TVWF Directive. Member State, public service broadcasters, religious organisations and consumers' and viewers' organisations have all expressed the view that these values should obviously apply to non-linear services as well, and not only to traditional television. But this does not impede Member States in adopting a co-regulation approach when implementing a possible new directive.

CULTURAL DIVERSITY

Last but far from least, cultural diversity: You know how attached I am personally to the promotion of cultural diversity. Indeed, in my previous portfolio, I launched the process leading to a unified European position on the UNESCO Convention on cultural diversity which has every chance of being adopted next month. As regards the Directive, there is a broad consensus that the rules in place have provided a stable and flexible framework for the promotion of European and independent production. They represent a compromise which was reached after long and hard negotiations and reflect the interests of all parties concerned: of the content supply industry but also of the broadcasting sector and primarily the interests of the viewing public which depends – at least in a linear environment – on the

offer of diverse and high quality scheduled programmes.

The issue of what to do in the non-linear environment is more controversial. While we can, I believe, agree on the objective of a vibrant European audiovisual production sector reflecting the diversity of our cultures, it is clear that transmission time quotas such as those in Article 4 – are not an option. On the other hand, it is clear that the Directive should provide for the free circulation of non-linear services in the internal market in a comprehensive way and needs to address this issue.

COMBINING FLEXIBILITY AND LEGAL CERTAINTY

If we want to succeed in defining the right legal framework for our industry and our citizens, if we want to succeed in boosting Europe's creative economy, Member States, industry and stakeholders must be ready to adopt realistic views and be prepared to compromise. In any case, be sure that the future legal framework will be a flexible instrument, the best possible balance between the maximum freedom for our industry to take full advantage of the single market and general interest principles. Be sure that it will aim at increasing legal certainty and competitiveness of our telecom and audiovisual industries. Be sure that it will aim at creating the conditions for a wide distribution of rich digital content – reflecting our cultural diversity – on many platforms. Be sure that the future legal framework will help Europe to lead the world in this crucial field of culture and commerce.

