

## Audiovisual Media Services Directive

### Background

The Audiovisual Media Services Directive stipulates quantitative and qualitative advertising rules on TV and to a certain extent other non-linear audiovisual media services.

The Commission has initiated a review of the Directive as part of the Digital Single Market package. The review process started in June 2015 when the Commission launched a public consultation to which EACA responded to. In May 2016, the Commission released [a new proposal](#).

### The AVMSD proposal

EACA welcomes the proposal as well balanced and thanks the European Commission for its continuous engagement with all relevant engagement with stakeholders throughout the public consultation process. We believe that the Directive contains many positive aspects while additional clarifications are needed.

### Self and co-regulation

The proposal renews its support for self and co-regulation. Recital 7 makes a clear reference to the Better Regulation Principles and to the Principles for Better Self and Co-Regulation, developed by the Community of Practice. Self-regulatory systems are well developed within national and cultural frameworks with clear objectives and enforcement measures. An exchange of best practices of SROs, facilitated by the European Advertising Standards Alliance (EASA), continues to be successful, as recognised by the Commission's study on self-regulation. To that end, we welcome the Commission's intention to continue endorsing self and co-regulation in all domains.

Moreover, we are glad to see that the Commission introduced a specific paragraph encouraging self and co-regulation for alcohol advertising in Article 9.3. This step builds on a long lasting tradition of alcohol advertising self-regulation across all EU member states. The same may be stated about a renewed support for self-regulation regarding advertising of food and beverages to children.

However, we would like to express our concern with regards to the Commission's intention to facilitate the development of Union-level codes (Article 4.7). The interplay of Union codes with existing well-functioning national codes or with other industry codes already covering the entire EU, such as the EU Pledge, is ultimately incomprehensible.

Additionally, it is unclear what kind of role the ERGA would have in this regard. We would not want to have multiple layers of conflicting self-regulatory systems across Europe. To that end, the provision on Union codes does require further interpretation and clarification beyond the initial intention.

Furthermore, a shift from 'children programmes' to 'programmes with a significant children audience' adds to the confusion. It is unclear what a significant children audience is, while the 'children programmes' stipulation is much easier for businesses to comprehend and apply, and for regulators to enforce.

### **Product placement**

EACA welcomes the Commission's decision to make product placement rules more flexible (Article 11). The existing Directive is very difficult to interpret and apply across the EU. To that end, the proposal represents a step in the right direction by simplifying the rules and making them more flexible.

### **Alcohol advertising**

The Ecorys study on minors' exposure to alcohol advertising proved that children are not specifically targeted by alcohol advertising, which is clearly recognised by the Commission who kept the Article 22 intact. The advertising industry is committed to responsible advertising practices and as such it has developed effective self-regulation which stipulates that advertising should not target minors. We can now see a decline of underage consumption of alcohol across Europe, according to the latest HBSC study.

### **Video-sharing platforms**

The proposal also aims to regulate video-sharing platforms in the context of protection of minors from content which may impair their physical, mental or moral development. EACA believes that this development is in line with the intention to establish a level playing field between different media. Furthermore, platforms should be held accountable and the co-regulatory approach is welcome. We believe that a large majority of platforms already has significant mechanisms in place and that the Directive will only add a co-regulatory perspective to their efforts.

### **Minimum harmonisation**

The concept of minimum harmonisation in the proposal is also welcome. However, we invite the European Commission and the European Parliament to be cautious about its implications for the free movement of services across Europe.

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