

The Television Without Frontiers Directive: final weeks in which to influence European Commission thinking

Although the revision process of the Television Without Frontiers (TWF) Directive has yet to evoke strong debate, some of the scenarios released in July by the European Commission could strongly affect the future evolution of Europe’s audiovisual framework:

- With respect to the **Directive’s field of application**: should non-linear services (such as **video-on-demand**) be covered by TWF? If the answer is ‘yes’, which **basic rules** should be applicable in common to all audiovisual services (“traditional” linear TV channels as well as new types)? And if these rules prove too restrictive, might that force new services to **migrate outside the EU**, given that they can be provided via the Internet?
- As for **advertising**: how would **revenue shares** between different media be likely to change if free range is given to **new forms of advertising** (such as product placement and interactive advertising) and current **limits on the number and timing of ad-breaks are abolished** (children’s, news and religious programming excepted)? And how would the current competitive **balance between the commercial networks and public broadcasters** be affected if the latter are not subject to a similar degree of liberalisation?
- Concerning measures of **support for original programme production**: is it necessary to extend the quota mechanism applied to “traditional” channels to **non-linear services**? And should rules designed to protect **independent producers** be strengthened?
- Meanwhile, what about the **underlying principles** according to which the Directive operates? Is it necessary to modify the **country of origin principle** according to which a channel licensed in a Member State which simply transposes the Directive as it stands has the right to be broadcast, for example, in France – where TV regulation is much more restrictive than elsewhere in the EU?

The European Commission is due to determine its policy and finalise the text of the new TWF Directive by the end of the year.

In order to help all stakeholders optimise their lobbying process with respect to the European Commission, NPA Conseil had produced a report summarising all the salient aspects of the revision process, which is broken down into two halves:

- **a side-by-side comparison of the state of audiovisual legislation currently in force in the five main European territories** (France, Germany, Italy, Spain, and the United Kingdom), in order to highlight political sensitivities and **national priorities** with respect to the key elements of the TWF Directive.



Examples :

- As regards **the length of ad-breaks on commercial networks**, there are significant differences in Member State regulation :
 - On one hand, **States which have simply implemented European rules as they stand**: Spain and Germany’s regulations state that the amount of advertising must not exceed 20% of transmission time, i.e. 12 minutes per hour on

- **interviews with dozen of major players across the 5 countries** (administrations, regulatory authorities, broadcasters, platform operators, advertisers, etc.) in order to underscore likely **national positioning by EU governments** and the interplay between **stakeholders’ differing strategies**.



Examples :

- There are considerable differences with respect to **broadcasting non-European channels**. Whereas French and Italian regulators are keen to control broadcasts of non-European channels in their territories, no particular rules apply in Germany, Spain or the UK, where ‘light-touch’ regulation is exercised on these issues.
- Opposition between broadcasters and

<p>average on a daily basis;</p> <ul style="list-style-type: none"> - And on the other hand, States which have adopted more restrictive rules: in Italy, duration is fixed at nine minutes per hour on average, while in the UK the figure is seven minutes, and in France, six minutes. <p>▪ Conversely, it appears that there is some degree of harmonisation of national regulations with respect to protection of minors. In fact, all European countries already have in place, or are about to implement (e.g. in Spain), a general framework for the protection of minors which encompasses the way programmes are classified, timing of watersheds, as well as protection mechanisms (pin codes, scrambling, etc.)</p>	<p>producers over the issue of how audiovisual services should be defined.</p>
<p>NPA Conseil's study brings together in one report a thorough analysis of all the above issues by ten European consultants across the five main European territories: France, Germany, Italy, Spain, and the United Kingdom.</p> <p>Purchase price: €5,000 (excluding VAT)</p> <p>For further information, contact: Philippe Bailly or Samir Ouachtati. Phone : +33 1 41 31 99 20 or e-mail: npa@npaconseil.com</p>	

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