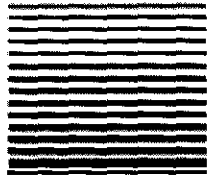


# ENPA



## **European Newspaper Publishers' Association (ENPA) position on revision of the proposed EU Directive on Television without Frontiers (COM (2005) 646 final)**

### ENPA on: Scope of the Directive

- ⇒ **Newspapers' core content in all its forms must be excluded from the scope of this Directive as in recital 15 of the Directive** to ensure legal certainty and to protect the freedom of the press from state control. The question must be asked whether there is a need to extend the scope of this Directive to all non-linear services. ENPA does not think this extension is necessary, especially as regulation of editorial content does not fall under the competence of the European Union. In explanation, to remain in step with aim of the existing Directive that is to regulate the "television" environment, linear audiovisual material distributed over the Internet would fall under the Directive, as it has just the same impact as linear distributed on a traditional TV set; however, other audiovisual services do not have the same impact.
- ⇒ Electronic newspaper services only use audiovisual elements as ancillary features to their main text and still picture features. The newspaper services are not meant to primarily deliver sound and moving images. ENPA supports the wording of recitals 14 and 15 as they appear in the Commission's proposal. Furthermore, according to Article 1, (a) of the Commission's proposed text, an audiovisual media service means a service "the principal purpose of which is the provision of moving images with or without sound". Newspapers do not and will not in future exist to be this type of service. ENPA therefore calls on the members of the European Parliament to recognise this by maintaining the exclusion in recital 15 for newspapers.

### ENPA on: Advertising rules

- ⇒ Publishers across Europe unanimously agree that **TV without Frontiers should ensure the separation between all advertising and editorial in addition to the identification of advertising content as currently guaranteed in the existing 1989/1997 Directive's Article 10§1 – therefore the Parliament should introduce the principle of separation into Article 3g (a) of the Commission's proposed text; it is also essential to maintain the prohibition of surreptitious advertising. It is also damaging to editorial integrity that sports' programmes are excluded from the principle of separation in article 10, §2.**
- ⇒ Product placement is a dangerous technique which threatens editorial independence. It is ENPA's belief that individual Member States must be able to continue to ban product placement in their national legislation if they wish, in the interests of maintaining such editorial independence. MEPs should therefore campaign to keep the existing Directive's regulation of product placement – where most Member States regard it as surreptitious advertising.
- ⇒ Informing only at the beginning of the programme about product placement is easily missed by viewers and therefore insufficient. Where product placement

already exists in certain fictional programmes, product placement must be regulated according to advertising hourly limits and identified as advertising simultaneously to broadcast.

⇒ The European Parliament should promote the difference which the Commission has made between sponsoring and product placement in its proposal in article 3h. In article 3h 1 (b), the sponsorship should neither directly nor indirectly encourage the purchase or rental of goods or services. This otherwise opens up editorial influence possibilities for sponsors if the Commission's text is not changed.

⇒ Furthermore, the text as proposed by the Commission is too ambiguous concerning hourly limits. This is referred to in recital 44 and Article 18. **ENPA considers that the limit of 12 minutes per hour televised advertising must remain in place, ensuring the entire range and duration of televised advertising is covered (including "other forms of advertising" such as Telepromotions which have are not subject to any time limits in the text proposed by the Commission).** ENPA proposes adding an article to the revised Television Without Frontiers Directive (previously Article 18 of 1989 Directive):

**"The proportion of advertising spots and other forms of advertising including telepromotions and teleshopping spots within a given clock hour shall not exceed 20%."**

We are also concerned that the Commission has not proposed a solution for the duration or frequency restrictions on product placement per hour.

#### ENPA on: Right to report on current events

- ⇒ TV without Frontiers Directive must **allow media covered by the Directive to provide reporting coverage**, thereby a guarantee of public right to information.
- ⇒ ENPA is concerned however that the Commission's proposed text in Article 3 and related recitals actually goes further than the original Directive in accepting pressure from rights' holders to give more recognition to the validity of all exclusive contracts concerning entertainment rights for events of public interest (recital 26, 1<sup>st</sup> sentence in the Commission's proposed text).
- ⇒ The Commission text also introduces a 90-second limit on short extracts (recital 27). Even if newspapers are not within this Directive, publishers are highly concerned that this type of restriction will have a negative impact on wider media ability to negotiate access to events subject to exclusive rights. ENPA could justify the Commission setting a minimum limit for access but not a restrictive maximum.
- ⇒ **ENPA calls on the Parliament to ensure** that this concession to broadcasters enjoying exclusive rights does not restrict access to other media – also those media not covered by the Directive such as newspapers.

#### ENPA on: Scope of the Directive

- ⇒ **There is no need for the EU to regulate media pluralism**; media pluralism is a matter which national governments can manage best according to local needs and there is no added value in additional EU action under the revised TV without Frontiers Directive.

#### ENPA on: the Commission's Impact Assessment for TV without Frontiers

- ⇒ The options which the Commission are proposing have not duly taken into account the impact of their proposal on the written press. Despite having provided the Commission and their consultants with statistical and analytical information at

their request, this has not been taken into account in the impact assessment. The impact assessment has glossed over the indirect effects on other media such effects which are just as important to consider as direct impacts. In fact, the Commission has not produced any substantial evidence that there would be positive benefits from this proposal to counter our own arguments (which have come directly from our industry) warning that there will be certain negative impacts for the press.

ENPA – the European Newspaper Publishers' Association - trusts that you will take our point of view into consideration and we remain at your disposal for any further information that you may require.

*ENPA is a non-profit organisation of 5100 titles from 24 European countries (plus one observer member), representing the interests of newspaper publishers to the European Institutions. More than 120 million copies of newspapers are sold each day and read by over 235 million people in Europe.*

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