European Union. Council of the EU: Provisional Inter-institutional Agreement on new AVMS Directive

Ó Fathaigh, R.

Published in:
IRIS

Citation for published version (APA):

General rights
It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations
If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: https://uba.uva.nl/en/contact, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

UvA-DARE is a service provided by the library of the University of Amsterdam (http://dare.uva.nl)

Download date: 28 Feb 2020
On 13 June 2018, following inter-institutional negotiations, the European Parliament, European Council, and European Commission published a Provisional Agreement on a proposal amending the Audiovisual Media Services Directive (2010/13/EU) (AVMSD), which was first put forward by the Commission in May 2016 (see IRIS 2016-6/3). The proposed version of the new Directive, running to 38 pages, makes substantial amendments to over 17 of the articles of the AVMSD and includes some new articles. A number of notable amendments should be mentioned.

Firstly, the amended Article 13(1) now provides that member states must ensure that media service providers of on-demand audiovisual media services under their jurisdiction ensure that European works make up at least 30% of their catalogues and ensure prominence of those works. Moreover, under Article 13(2), where member states require media service providers under their jurisdiction to contribute financially to the production of European works (including via direct investment in content and contributing to national funds), they may also require media service providers which target audiences in their territories but which are established in other member states to make such financial contributions; furthermore, those contributions must be proportionate and non-discriminatory.

Secondly, in relation to television advertising, the amended Article 23 provides that the proportion of television advertising spots and teleshopping spots between (i) 6 a.m. and 6 p.m. and (ii) 6 p.m. and midnight must not exceed 20% of airtime. Moreover, under the current wording of Article 23, the proportion of television advertising spots and teleshopping spots within a given hour of the clock shall not exceed 20% of airtime.

Thirdly, a new Chapter IXa is included which contains new provisions applicable to video-sharing platform services. A substantial definition of a video-sharing platform service is included; the new chapter defines a video-sharing service as one “where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate, by means of an electronic communications network and the organisation of which is determined by the video-sharing platform provider, including by automatic means or algorithms in particular by displaying, tagging and sequencing.”

Notably, under a new Article 28a(1), member states must ensure that video-sharing platforms take “appropriate measures” to protect (a) minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental or moral development; (b) the general public from programmes, user-generated videos and audiovisual commercial communications containing incitement to violence or hatred directed against a group of persons or a member of a group; and (c) the general public from programmes, user-generated videos and audiovisual commercial communications containing content the dissemination of which constitutes an activity which is a criminal offence under EU law, namely public provocation to commit a terrorist offence, offences concerning child pornography, and offences concerning racism and xenophobia. Notably, a new Article 28a(3) elaborates upon the “appropriate measures” to be applied to video-sharing platforms, but states that they “shall not lead to any ex-ante control measures or upload-filtering of content” which do not comply with Article 15 of the e-Commerce Directive (2000/31/EC).

The proposal will now be sent for formal adoption by the Council and the European Parliament later in 2018.
The objective of IRIS is to publish information on legal and law-related policy developments that are relevant to the European audiovisual sector. Despite our efforts to ensure the accuracy of the content, the ultimate responsibility for the truthfulness of the facts on which we report is with the authors of the articles. Any opinions expressed in the articles are personal and should in no way be interpreted as representing the views of any organisations represented in its editorial board.

© European Audiovisual Observatory, Strasbourg (France)