

EDiMA reaction to the Commission's proposal for a revision of the Directive on Audio Visual Media Services

EDiMA* read the European Commission's proposal for a revision of the Directive on Audio Visual Media Services (AVMSD) with interest. We view the current framework of the AVMSD as continuing to provide a solid basis for existing and new companies to provide audio visual content both across the EU and globally. EDiMA is encouraged by some of the underlying principles in the proposal for revision and especially welcomes the clarification that the proposal will not create any obligations that might conflict with the ecommerce Directive and more specifically the safe harbour entrenched therein which we view as a cornerstone of European economic development. This is echoed by the fact that REFIT exercise of the AVMSD does not impose editorial responsibility to online platforms;

EDiMA furthermore welcome the Commission's co- and self-regulatory approach to online media platforms, as an alternative to regulation and look forward to engaging in stakeholder dialogues on fighting illegal content online, improving the experience for families on the internet and ensuring that our platforms are not facilitating the incitement to hatred.

EDiMA is, however, disappointed that the approach adopted by the Commission does not truly reflect the difference between non-linear services, centred on user control and choice, and traditional television broadcasting services. These services offer very different value propositions for consumers and EDiMA views the current AVMSD regime as providing a solid legal basis for the sector to develop and innovate. Whereas strict rules regarding availability of content were necessary in the offline world in the past today the online world sees consumers able to access a wide variety of content and thus the necessity to have such stringent rules for non-linear players does not exist. We therefore believe that a potential easing of the strict framework used for the linear environment in the past could have provided with a more progressive manner for the current environment.

It is essential to bear in mind that video-on-demand (VOD) catalogues are built to provide customers what they want to watch. In the EU, culture, tastes and languages differ, therefore for companies to be successful it is important to offer a selection of exclusive movies and series across all genres, languages and countries of origin. VOD service providers provide a mix of licensed and original European content, contributing to the promotion of European works not only within Europe, but also internationally.

We encourage an approach which continues to favour the freedom of services to be able to provide consumers quality content that best meets their interests, culture, tastes and languages, while continuing to promote European and international creators without stringent quotas that do not fit the digital environment or consumer expectations.

The imposition of strict numerical quotas to ensure the promotion of European works by on-demand audio visual media services is a prime example that the proposal does not fully reflect the nature and difference of these services. On-demand audio visual media services are not constrained by limited "shelf space" or hours in a day for programmes. We therefore question whether such numerical quotas are indeed necessary for such services. Furthermore, some broadcasters in certain EU MS are allowed exemptions to the set quotas today already. EDiMA would therefore like to understand how in these instances a level playing field can be achieved. It is also important to clarify the definition of

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what constitutes a European work, as the current text entails a heavy burden in terms of research and reporting.

To create a real level playing field for VOD market, VOD service providers should not only be obliged to pay into national schemes but also be able to have access to the latest theatrical films, specifically if they contribute to them (In FR films are only released to the VOD market after 3 years).

Last but not least EDiMA is concerned with the fact that the introduction of funding of national schemes undermines the country of origin principle which is a cornerstone of the Directive.

**The European association representing European and global online platforms and innovation technology companies operating in the EU. Members include: Airbnb, Allegro Group, Amazon EU, Apple, eBay, Expedia, Facebook, Google, King, LinkedIn, Microsoft, Mozilla, PayPal, TripAdvisor, Twitter, Yahoo! Europe, Yelp.*