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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	WK 7108/2017
No. Cion doc.:	9479/16 AUDIO 68 DIGIT 55 CONSOM 121 IA 28 TELECOM 98 CODEC 74
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of <b>audiovisual media services</b> in view of changing market realities <i>- Revised Presidency recitals</i>

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In preparation for the meeting of the Audiovisual Working Party on 20 July 2017, delegations will find attached a four-column table which contains revised Presidency recitals (recitals 7, 12, 26, 27, 27a and 28).

Changes to the previous document (WK 7108/17) are indicated in **bold underlined**.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities**

<b>COMMISSION PROPOSAL</b> <b>(doc. 9479/16)</b> in a consolidated version of the 2010 AVMS directive <sup>1</sup>	<b>COUNCIL</b> <b>(GA - doc. 9691/17)<sup>2</sup></b>	<b>EUROPEAN PARLIAMENT</b> <b>approved by plenary</b> <b>on 18 May 2017<sup>3</sup></b>	<b>BASIS FOR NEGOTIATIONS</b>
TITLE			
Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in	[No change]	<u><i>AMD 1</i></u>	Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in

<sup>1</sup> In this column,  
- for the recitals, only normal font is used.  
- for the articles, normal font is used for the text coming from the consolidated version of the AVMS directive (OJ L 95, 15.4.2010, p. 1), while the **bold** font indicates the changes proposed by the Commission in its amending proposals (doc. 9479/16).

<sup>2</sup> In this column, changes to the first column are indicated in **bold** and [...].

<sup>3</sup> A8-0192/2017. In this column, changes to the first column are indicated in **bold italics** and [...].

Member States concerning the provision of audiovisual media services in view of changing market realities		Member States concerning the provision of audiovisual media services in view of changing market realities ( <i>Audiovisual Media Services Directive</i> )	
RECITALS			
<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1) and 62 thereof,</p> <p>Having regard to the proposal from the European Commission,</p> <p>After transmission of the draft legislative act to the national parliaments,</p> <p>Acting in accordance with the ordinary legislative procedure,</p>	[No change]	[No change]	

<p>Whereas:</p> <p>(1) The last substantive amendment to Directive 89/552/EEC of the Council<sup>4</sup>, later codified by Directive 2010/13/EU of the European Parliament and of the Council<sup>5</sup>, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council<sup>6</sup>. Since then, the market of audiovisual media services has evolved significantly and rapidly. Technical developments allow for new types of services and user experiences. The viewing habits, particularly of younger generations, have changed significantly. While the main TV screen remains an important</p>	<p>[No change]</p>	<p style="text-align: center;"><b><u>AMD 2</u></b></p> <p>(1) The last substantive amendment to Directive 89/552/EEC of the Council<sup>4</sup>, later codified by Directive 2010/13/EU of the European Parliament and of the Council<sup>5</sup>, was made in 2007 with the adoption of Directive 2007/65/EC of the European Parliament and of the Council<sup>6</sup>. Since then, the market of audiovisual media services has evolved significantly and rapidly <b><i>due to the ongoing convergence of television and internet services</i></b>. Technical developments allow for new types of services and user experiences. The viewing habits, particularly of younger</p>	
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<sup>4</sup> Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 298, 17.10.1989, p. 23).

<sup>5</sup> Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

<sup>6</sup> Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (OJ L 332, 18.12.2007, p. 27).

<p>device to share audiovisual experiences, many viewers have moved to other, portable devices to watch audiovisual content. Traditional TV content accounts still for a major share of the average daily viewing time. However, new types of content, such as short videos or user-generated content, gain increasing importance and new players, including providers of video-on-demand services and video-sharing platforms, are now well-established.</p>		<p>generations, have changed significantly. While the main TV screen remains an important device to share audiovisual experiences, many viewers have moved to other, portable devices to watch audiovisual content. Traditional TV content accounts still for a major share of the average daily viewing time. However, new types of content, such as short videos or user-generated content, gain increasing importance and new players, including providers of video-on-demand services and video-sharing platforms, are now well-established. <b><i>This convergence of media requires an updated legal framework in order to reflect developments in the market and to achieve a balance between access to online content services, consumer protection and competitiveness.</i></b></p>	
<p>(2) On 6 May 2015, the Commission adopted "A Digital Single Market Strategy for Europe"<sup>7</sup> in which it announced a review of Directive</p>	<p>[No change]</p>	<p style="text-align: center;"><b><u>AMD 3</u></b></p> <p>(2) On 6 May 2015, the Commission adopted "A Digital Single Market Strategy for Europe"<sup>7</sup> in which it announced</p>	

<sup>7</sup> COM(2015) 192 final

2010/13/EU.		a review of Directive 2010/13/EU. <i>In its resolution of 19 January 2016, "Towards a Digital Single Market Act"<sup>8</sup>, the European Parliament set out what it would expect from that review. The European Parliament had previously called for a review on 4 July 2013 in its resolution "Connected TV"<sup>9</sup> and on 12 March 2014 in its resolution "Preparing for a Fully Converged Audiovisual World"<sup>10</sup> and indicated the objectives of that review.</i>	
(3) Directive 2010/13/EU should remain applicable only to those services the principal purpose of which is the provision of programmes in order to inform, entertain or educate. The principal purpose requirement should be also considered to be met if the service has audiovisual content and form which is dissociable from the main activity of the service provider, such as	(3) Directive 2010/13/EU should remain applicable only to those services the principal purpose of which is the provision of programmes in order to inform, entertain or educate. The principal purpose requirement should be also considered to be met if the service has audiovisual content and form which is dissociable from the main activity of the service provider, such as	<b><u>AMD 4</u></b> (3) Directive 2010/13/EU should [...] <b>be</b> applicable only to those services the principal purpose of which is the provision of programmes in order to inform, entertain or educate. The principal purpose requirement should be also considered to be met if the service has audiovisual content and form which is dissociable from the main activity of the service	

<sup>8</sup> P8\_TA(2016)0009

<sup>9</sup> P7\_TA(2013)0329

<sup>10</sup> P7\_TA(2014)0232

<p>stand-alone parts of online newspapers featuring audiovisual programmes or user-generated videos where those parts can be considered dissociable from their main activity. Social media services are not included, except if they provide a service that falls under the definition of a video-sharing platform. A service should be considered to be merely an indissociable complement to the main activity as a result of the links between the audiovisual offer and the main activity. As such, channels or any other audiovisual services under the editorial responsibility of a provider may constitute audiovisual media services in themselves, even if they are offered in the framework of a video-sharing platform which is characterised by the absence of editorial responsibility. In such cases, it will be up to the providers with editorial responsibility to abide by the provisions of this Directive.</p>	<p>stand-alone parts of online newspapers featuring audiovisual programmes or user-generated videos where those parts can be considered dissociable from their main activity. A service should be considered to be merely an indissociable complement to the main activity as a result of the links between the audiovisual offer and the main activity <b>such as providing news in written form</b>. As such, channels or any other audiovisual services under the editorial responsibility of a provider may constitute audiovisual media services in themselves, even if they are offered in the framework of a video-sharing platform which is characterised by the absence of editorial responsibility. In such cases, it will be up to the providers with editorial responsibility to abide by the provisions of this Directive.</p>	<p>provider [...]. <i>As social media platform services rely increasingly on audiovisual content, they are relevant for the purposes of Directive 2010/13/EU in so far as they provide services that meet the criteria defining a video-sharing platform.</i> A service should be considered to be merely an indissociable complement to the main activity as a result of the links between the audiovisual offer and the main activity. As such, channels or any other audiovisual services under the editorial responsibility of a provider may constitute audiovisual media services in themselves, even if they are offered in the framework of a video-sharing platform [...]. In such cases, it will be up to the providers with editorial responsibility to abide by the provisions of this Directive. <i>Games of chance involving a stake representing a sum of money, including lotteries, betting and other forms of gambling as well as on-line games and search engines, should continue to be excluded from the scope of Directive 2010/13/EU.</i></p>	
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	<p><b>(3a) Video-sharing platform services provide audiovisual content which is increasingly accessed by the general public and in particular by young people. This also applies to social media services that have become an important medium to share information, entertain and educate, including by providing access to programmes and user-generated videos. These social media services need to be included because they compete for the same audiences and revenues as the audiovisual media services. Furthermore they also have a considerable impact in that they facilitate the possibility for users to shape and influence the opinions of other users. Therefore, in order to protect minors from harmful content and all citizens from incitement to hatred, violence and terrorism, it is reasonable to require that these services should be covered by this Directive. In the case of social media services, these services should be covered insofar as and to the extent that they meet the requirements defining a</b></p>		
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	<p><b>video-sharing platform service.</b></p>		
	<p><b>(3b) While the aim of this Directive is not to regulate social media services as such, social media services should be covered if the provision of programmes and user-generated videos constitute an essential functionality of that service. The provision of programmes and user-generated content could be considered to constitute an essential functionality of the social media service if the audiovisual content is not merely ancillary to or constitutes a minor part of the activities of that social media service. In order to ensure clarity, effectiveness and consistency of implementation, where necessary, the Commission should issue guidelines on the practical application of certain aspects of the definition of a 'video-sharing platform service', in particular with respect to the criterion of essential functionality. These guidelines should be adopted after consulting the Contact Committee. These guidelines should, inter alia, take into</b></p>		

	<p><b>account the totality of the functionalities offered by the service or the average use by the recipients of the service, as well as whether the service has put in place shared revenue models for the distribution and placement of audiovisual commercial communications in and around the programmes and user-generated videos. They should be drafted with due regard for the general public interest objectives as set out in Article 28a(1) and the right to freedom of expression.</b></p>		
	<p><b>(3c) Where a dissociable section of the service constitutes a video-sharing platform service for the purposes of this Directive, only that section should be covered by the provisions applicable to video-sharing platforms in the Directive, and only as regards programmes and user-generated videos. Video clips embedded in editorial content of electronic versions of newspapers and magazines and animated images such as GIFS should not be covered by this Directive. The definition of a video-sharing platform service should not cover non-economic</b></p>		

	activities, such as audiovisual content on private websites and non-commercial communities of interest.		
	(3d) Effective editorial responsibility is ensured through editorial decisions taken on a regular basis. In order to assess where editorial decisions are taken on a regular basis, account should be taken of the frequency of such decisions and their link to the day-to-day operation of the audiovisual media service.	<u>AMD 5</u> <i>(3a) Editorial decisions are decisions taken on a day-to-day basis, in particular by programme directors and editors-in-chief, in the context of an approved programme schedule. The place in which editorial decisions are taken is the normal place of work of the persons who take them.</i>	
(4) In order to ensure the effective implementation of this Directive, it is crucial for Member States to keep up-to-date records of the audiovisual media service providers and video-sharing platform providers under their jurisdiction and regularly share those records with their competent independent regulatory authorities and the Commission. Those records should include information about the criteria on which jurisdiction	(4) In order to ensure the effective implementation of this Directive, it is crucial for Member States to [...] <b>establish and maintain</b> up-to-date records of the audiovisual media service providers and video-sharing platform providers under their jurisdiction and regularly share those records with their competent independent regulatory authorities and the Commission. Those records should include information about the criteria on which jurisdiction	<u>AMD 6</u> <i>(4) In order to ensure the effective implementation of this Directive, it is crucial for Member States to keep up-to-date <b>transparent</b> records of the audiovisual media service providers and video-sharing platform providers under their jurisdiction and regularly share those records with their competent independent regulatory authorities <b>and/or bodies</b> and the Commission. Those records should include information about the criteria on</i>	

is based.	is based.	which jurisdiction is based.	
<p>(5) Establishing jurisdiction requires an assessment of factual situations against the criteria laid down in Directive 2010/13/EU. The assessment of such factual situations might lead to conflicting results. In the application of the cooperation procedures provided for in Articles 3 and 4 of Directive 2010/13/EU, it is important that the Commission can base its findings on reliable facts. The European Regulators Group for Audiovisual Media Services (ERGA) should therefore be empowered to provide opinions on jurisdiction upon the Commission's request.</p>	<p>(5) Establishing jurisdiction requires an assessment of factual situations against the criteria laid down in Directive 2010/13/EU. The assessment of such factual situations might lead to conflicting results. In the application of the cooperation procedures provided for in Articles 3 and 4 of Directive 2010/13/EU, it is important that the Commission can base its findings on reliable facts. The European Regulators Group for Audiovisual Media Services (ERGA) should therefore be empowered to provide opinions on jurisdiction upon the Commission's request. <b>Where the Commission in the application of Articles 3 and 4 of Directive 2010/13/EU decides to consult ERGA, it should provide the Contact Committee with information, including on a notification received from a Member State under these cooperation procedures, and on ERGA's opinion.</b></p>	<p style="text-align: center;"><b><u>AMD 7</u></b></p> <p>(5) Establishing jurisdiction requires an assessment of factual situations against the criteria laid down in Directive 2010/13/EU. The assessment of such factual situations might lead to conflicting results. In the application of <i>[...]</i> Articles 2, 3 and 4 of Directive 2010/13/EU, it is important that the Commission can base its findings on reliable facts. The European Regulators Group for Audiovisual Media Services (ERGA), <b><i>composed of independent regulatory authorities and/or bodies in the field of audiovisual media services</i></b>, should therefore be empowered to provide <b><i>non-binding</i></b> opinions on jurisdiction upon the Commission's request. <b><i>It is important that the ERGA and the contact committee keep each other informed and that they cooperate with regulatory authorities and/or bodies.</i></b></p>	

<p>(6) The procedures and conditions for restricting freedom to provide and receive services should be the same for linear and non-linear services.</p>	<p>[No change]</p>	<p>[No change]</p>	
	<p><b>(6a) In accordance with existing case law by the Court of Justice, the freedom to provide services guaranteed under the Treaties may be restricted for overriding reasons in the public interest, such as to obtain a high level of consumer protection, provided that such restrictions are justified, proportionate and necessary. Therefore, a Member State may take certain measures to ensure respect for its consumer protection rules which do not fall in the coordinated area of this Directive. Measures taken by a Member State to enforce its national consumer protection regime, including in relation to gambling advertising, would need to be justified, proportionate to the objective sought to attain, and necessary as required under EU case law. In any event, a receiving Member State must not take any measures which would prevent the re-</b></p>		

	<b>transmission, in its territory, of television broadcasts coming from another Member State.</b>		
	<b>(6b) A Member State, when notifying to the Commission that a media service provider has established itself in the Member State having jurisdiction in order to circumvent the stricter rules in the fields coordinated by this Directive, which would be applicable to it if it were established in the first Member State, should adduce credible and duly substantiated evidence to that effect. While such evidence does not have to establish a media service provider's intention to circumvent those stricter rules, the Member State concerned should detail a set of corroborating facts allowing for such circumvention to be reasonably established.</b>		
(7) In its Communication to the European Parliament and to the	(7) In its Communication to the European Parliament and to the	<b><u>AMD 8</u></b>	(7) In its Communication to the European Parliament and to the

<p>Council on Better Regulation for Better Results – an EU Agenda<sup>11</sup>, the Commission stressed that when considering policy solutions, it will consider both regulatory and well-designed non-regulatory means, modelled on the Community of practice and the Principles for Better Self- and Co-regulation<sup>12</sup>. A number of codes set up in the areas coordinated by the Directive have proved to be well designed, in line with the Principles for Better Self- and Co-regulation. The existence of a legislative backstop has been considered an important success factor in promoting compliance with a self- or co-regulatory code. It is equally important that the codes establish specific targets and objectives allowing for the regular, transparent and independent monitoring and evaluation of the objectives aimed by the codes. Graduated sanctions which maintain an element of proportionality are usually considered to be an effective approach in enforcing a scheme. These principles should</p>	<p>Council on Better Regulation for Better Results – an EU Agenda<sup>11</sup>, the Commission stressed that when considering policy solutions, it will consider both regulatory and well-designed non-regulatory means, modelled on the Community of practice and the Principles for Better Self- and Co-regulation<sup>12</sup>. A number of codes set up in the areas coordinated by the Directive have proved to be well designed, in line with the Principles for Better Self- and Co-regulation. The existence of a legislative backstop has been considered an important success factor in promoting compliance with a self- or co-regulatory code. It is equally important that the codes establish specific targets and objectives allowing for the regular, transparent and independent monitoring and evaluation of the objectives aimed by the codes. <b><u>The codes should also provide for effective enforcement.</u></b> [...] These principles should be followed by the self- and co-regulatory codes adopted in the</p>	<p>Council on Better Regulation for Better Results – an EU Agenda<sup>11</sup>, the Commission stressed that when considering policy solutions, it will consider both regulatory and [...] non-regulatory means, modelled on the Community of practice and the Principles for Better Self- and Co-regulation<sup>12</sup>. A number of codes set up in the areas coordinated by the Directive have proved to be well designed, in line with the Principles for Better Self- and Co-regulation, <b><i>which constitute a useful additional or complementary means for legislative action.</i></b> The existence of a legislative backstop has been considered an important success factor in promoting compliance with a self- or co-regulatory code. It is equally important that the codes establish specific targets and objectives allowing for the regular, transparent and independent monitoring and evaluation of the objectives aimed by the codes. [...] These principles should be followed by the self- and co-regulatory codes</p>	
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<sup>11</sup> COM(2015) 215 final

<sup>12</sup> <https://ec.europa.eu/digital-single-market/communities/better-self-and-co-regulation>

<p>be followed by the self- and co-regulatory codes adopted in the areas coordinated by this Directive.</p>	<p>areas coordinated by this Directive.</p>	<p>adopted in the areas coordinated by this Directive.</p>	
<p>(8) In order to ensure coherence and give certainty to businesses and Member States' authorities, the notion of "incitement to hatred" should, to the appropriate extent, be aligned to the definition in the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law which defines hate speech as "publicly inciting to violence or hatred". This should include aligning the grounds on which incitement to violence or hatred is based.</p>	<p>(8) In order to ensure coherence and give certainty to businesses and Member States' authorities, the notion of "incitement to <b>violence or</b> hatred" should, to the appropriate extent, be aligned to the definition in the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law [...].</p>	<p style="text-align: center;"><b><u>AMD 9</u></b></p> <p>(8) In order to ensure coherence and <b>[...] legal certainty for Union citizens</b>, businesses and Member States' authorities, <b>[...]</b> "incitement to hatred" should <b>[...]</b> be aligned <b>[...] with</b> the definition in the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law which defines hate speech as "publicly inciting to violence or hatred". <b>[...] The</b> grounds on which incitement to violence and hatred <b>are</b> based <b>should be extended in accordance with the grounds contained in Article 21 of the Charter of Fundamental Rights of the European Union (the Charter)</b>.</p>	
	<p><b>(8a) The terrorist threat has grown and evolved in recent years. Offences related to terrorist activities are of a very serious</b></p>		



	<p>nature as they can lead to a terrorist act being committed. Therefore, and in order to protect the population from such threats, there is a need to address public provocation to commit a terrorist offence in this Directive. This should be aligned, to the appropriate extent, with Article 5 of Directive on Combating Terrorism, in order to ensure coherence and give legal certainty to businesses and Member States' authorities.</p>		
		<p style="text-align: center;"><u>AMD 10</u></p> <p><i>(8a) In order to enable citizens to access information, exercise informed choices, evaluate media contexts, and use, critically assess and create audiovisual content responsibly, they need advanced media literacy skills. Such media literacy skills would allow them to understand the nature of content and services, taking advantage of the full range of opportunities offered by communications technologies, so that they can use media effectively and safely. Media</i></p>	

		<p><i>literacy should not be limited to learning about tools and technologies but should aim to equip citizens with the critical thinking skills required to exercise judgement, analyse complex realities, recognise the difference between opinion and fact, and withstand all forms of hate speech. The development of media literacy for all citizens, irrespective of age, should be promoted.</i></p>	
<p>(9) In order to empower viewers, including parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done, for instance, through a system of content descriptors indicating the nature of the content. Content descriptors could be delivered through written, graphical or acoustic means.</p>	<p>(9) In order to empower viewers, including parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done, for instance, through a system of content <b>descriptors, an acoustic warning, a visual symbol or any other means, describing</b> the nature of the content. [...]</p>	<p><u><b>AMD 11</b></u></p> <p>(9) In order to empower viewers, [...] <b>in particular</b> parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about <b>such content, in particular</b>, content that may impair minors' physical, mental or moral development. [...] <b>Video-sharing platform providers should likewise provide such information, within the limits provided for in Articles 14 and 15 of Directive 2000/31/EC of the European Parliament and of the Council.</b></p>	

	<p><b>(9-a) The appropriate measures for the protection of minors applicable to television broadcasting services should also apply to on-demand audiovisual media services. This should increase the level of protection. The minimum harmonisation approach allows Member States to develop a higher degree of protection for content which may impair the physical, mental or moral development of minors. The most harmful content, which may impair the physical, mental or moral development of minors, but is not necessarily a criminal offence, should be subject to the strictest measures ensuring that such content is only accessible to adults.</b></p>		
	<p><b>(9a) When deciding about the means to achieve accessibility in audiovisual media services under their jurisdiction, Member States can take into account criteria such as whether the provider has a low audience or low turnover. In order to measure the progress that media service providers have made in</b></p>	<p style="text-align: center;"><b><u>AMD 12</u></b></p> <p><i>(9a) Ensuring the accessibility of audiovisual content is an essential requirement in the context of the implementation of the United Nations (UN) Convention on the Rights of Persons with Disabilities. The right of persons with an impairment and of the elderly to participate and be integrated</i></p>	

	<p><b>making their services progressively accessible to people with visual or hearing disabilities, Member States should require from the providers established on their territory to report to them on a regular basis.</b></p>	<p><i>in the social and cultural life of the Union is linked to the provision of accessible audiovisual media services. Therefore, Member States should, without undue delay, take appropriate and proportionate measures to ensure that media service providers under their jurisdiction actively seek to make content accessible to persons with a visual or hearing impairment. Accessibility requirements should be met through a progressive and continuous process, while taking into account the practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time. It should be possible to develop appropriate accessibility measures through self-regulation and co-regulation. In order to facilitate access to information and to address complaints about accessibility issues, Member States should establish a single point of contact, which should be fully accessible online.</i></p>	
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	<p><b>(9b) Emergency information should continue to be made public through audiovisual media services even if there are circumstances where it is not possible to provide such information in a manner that is accessible to people with a visual or hearing disability.</b></p>		
<p>(10) Certain widely recognised nutritional guidelines exist at national and international level, such as the WHO Regional Office for Europe's nutrient profile model, in order to differentiate foods on the basis of their nutritional composition in the context of foods television advertising to children. Member States should be encouraged to ensure that self-and co-regulatory codes of conduct are used to effectively reduce the exposure of children and minors to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars or fat or that otherwise do not fit these national or international nutritional guidelines.</p>	<p>(10) Certain widely recognised nutritional guidelines exist at national and international level, such as the WHO Regional Office for Europe's nutrient profile model, in order to differentiate foods on the basis of their nutritional composition in the context of foods television advertising to children. Member States should be encouraged to ensure that self-and co-regulatory codes of conduct are used to effectively [...] <b>limit</b> the exposure of children and minors to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars, [...] fat, <b>saturated fats or trans-fatty acids</b> or that otherwise do not fit these national or international nutritional guidelines.</p>	<p style="text-align: center;"><u><i>AMD 13</i></u></p> <p>(10) [...] Member States should be encouraged to ensure that [...] <b>self-regulation and co-regulation, including</b> codes of conduct, effectively [...] <b>contribute to the objective of the reduction of</b> the exposure of children [...] to audiovisual commercial communications regarding foods and beverages that are high in salt, sugars or fat, or that otherwise do not fit [...] national or international</p>	

		<p>nutritional guidelines. <i>Self-regulation and co-regulation should contribute to this objective and should be monitored closely.</i></p>	
		<p style="text-align: center;"><b><u>AMD 14</u></b></p> <p><i>(10a) In addition, Member States should ensure that self-regulatory and co-regulatory codes of conduct aim at effectively reducing the exposure of children and minors to audiovisual commercial communications relating to the promotion of gambling. Several co-regulatory or self-regulatory systems exist at Union and national level for the promotion of responsible gambling, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those systems aiming at ensuring that responsible gambling messages accompany audiovisual commercial communications for gambling.</i></p>	
<p>(11) Similarly, Member States should be encouraged to ensure that self- and co-regulatory codes of</p>	[No change]	[No change]	

<p>conduct are used to effectively limit the exposure of children and minors to audiovisual commercial communications for alcoholic beverages. Certain co-regulatory or self-regulatory systems exist at Union and national level in order to market responsibly alcoholic beverages, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.</p>			
<p>(12) In order to remove barriers to the free circulation of cross-border services within the Union, it is necessary to ensure the effectiveness of self- and co-regulatory measures aiming, in particular, at protecting consumers or public health. When well enforced and monitored, codes of conduct at Union level might be a good means of ensuring a more coherent and effective approach.</p>	<p>(12) In order to remove barriers to the free circulation of cross-border services within the Union, it is necessary to ensure the effectiveness of self- and co-regulatory measures aiming, in particular, at protecting consumers or public health. <b><u>Well enforced and monitored, self-regulatory</u></b> codes of conduct at Union level might <b>therefore</b> be a good means of ensuring a more coherent and effective approach <b><u>[...]</u></b>.</p>	<p style="text-align: center;"><b><u>AMD 15</u></b></p> <p>(12) In order to remove barriers to the free circulation of cross-border services within the Union, it is necessary to ensure the effectiveness of self- and co-regulatory measures aiming, in particular, at protecting consumers or public health. <i>[...]</i></p>	

<p>(13) The market for TV broadcasting has evolved and that there is a need for more flexibility with regard to audiovisual commercial communications, in particular for quantitative rules for linear audiovisual media services, product placement and sponsorship. The emergence of new services, including without advertising, has led to a greater choice for viewers, who can easily switch to alternative offers.</p>	<p>(13) The market for TV broadcasting has evolved and that there is a need for more flexibility with regard to audiovisual commercial communications, in particular for quantitative rules for linear audiovisual media service <b>and</b> product placement [...]. The emergence of new services, including without advertising, has led to a greater choice for viewers, who can easily switch to alternative offers.</p>	<p style="text-align: center;"><b><u>AMD 16</u></b></p> <p>(13) The market for [...] <b>audiovisual media services</b> has evolved and there is a need for <b>greater clarity and</b> more flexibility [...] <b>in order to ensure a more genuine level playing field for</b> audiovisual commercial communications, [...] <b>sponsorship and product placement</b>. The emergence of new services, including without advertising, has led to a greater choice for viewers, who can easily switch to alternative offers.</p>	
		<p style="text-align: center;"><b><u>AMD 17</u></b></p> <p><b>(13a) In order to ensure the effectiveness of this Directive, in particular as regards the editorial responsibility of media service providers, the integrity of programmes and services should be safeguarded. Changes in the display of programmes and services that have been initiated by the recipient of a service should be permitted.</b></p>	



		<p style="text-align: center;"><b><u>AMD 18</u></b></p> <p><b><i>(13b) Independent audience measurement for audiovisual media services, including audiovisual commercial communications, is needed to ensure the provision of adequate and transparent information to audiovisual media service providers and regulatory authorities and/or bodies.</i></b></p>	
<p>(14) Sponsorship represents an important means of financing audiovisual media services or programmes while promoting a legal or physical person's name, trade mark, image, activities or products. As such, for sponsorship to constitute a valuable form of advertising technique for advertisers and audiovisual media service providers, sponsorship announcements can contain promotional references to the goods or services of the sponsor, while not directly encouraging</p>	<p>(14) Sponsorship represents an important means of financing audiovisual media services or programmes while promoting a legal or physical person's name, trade mark, image, activities or products. [...] Sponsorship announcements should continue to clearly inform the viewers of the existence of a sponsorship agreement. The content of sponsored programmes should not be influenced in such a way as to affect the audiovisual media service provider's editorial independence.</p>	<p style="text-align: center;"><b><u>AMD 19</u></b></p> <p>(14) Sponsorship represents an important means of financing audiovisual [...] <b>content.</b> [...] Sponsorship announcements should continue to clearly inform the viewers of the existence of a sponsorship agreement. [...] Sponsored [...] <b>content</b> should not be influenced in such a way as to affect the [...] service provider's editorial independence.</p>	

<p>the purchase of the goods and services. Sponsorship announcements should continue to clearly inform the viewers of the existence of a sponsorship agreement. The content of sponsored programmes should not be influenced in such a way as to affect the audiovisual media service provider's editorial independence.</p>			
<p>(15) The liberalisation of product placement has not brought about the expected take-up of this form of audiovisual commercial communication. In particular, the general prohibition of product placement with some exceptions has not created legal certainty for audiovisual media service providers. Product placement should thus be allowed in all audiovisual media services, subject to exceptions.</p>	<p>[No change]</p>	<p style="text-align: center;"><b><u>AMD 20</u></b></p> <p>(15) The liberalisation of product placement has not brought about the expected take-up of this form of audiovisual commercial communication. In particular, the general prohibition of product placement with some exceptions has not created legal certainty for audiovisual media service providers. Product placement should thus be allowed in all audiovisual media services <b><i>and video-sharing platform services</i></b>, subject to exceptions, <b><i>as it can create additional income for audiovisual media service providers.</i></b></p>	

		<p style="text-align: center;"><u>AMD 21</u></p> <p><i>(15a) In order to protect the editorial responsibility of the media service providers and the audiovisual value chain, it is essential that the integrity of the programmes and services supplied by media service providers be guaranteed. Programmes and services should be transmitted without being shortened, altered or interrupted. Programmes and services should not be modified without the consent of the media service provider.</i></p>	
<p>(16) Product placement should not be admissible in news and current affairs programmes, consumer affairs programmes, religious programmes and programmes with a significant children's audience. In particular, evidence shows that product placement and embedded advertisements can affect children's behaviour as children are often not able to recognise the commercial</p>	<p>(16) Product placement should not be [...] <b>allowed</b> in news and current affairs programmes, consumer affairs programmes, religious programmes and <b>children's</b> programmes [...]. In particular, evidence shows that product placement and embedded advertisements can affect children's behaviour as children are often not able to recognise the commercial content. There is thus</p>	<p style="text-align: center;"><u>AMD 22</u></p> <p>(16) Product placement should not be admissible in news and current affairs programmes, consumer affairs programmes, religious programmes and <i>children's</i> programmes [...] <b>and content aimed primarily at children</b>. In particular, evidence shows that product placement and embedded advertisements can affect children's behaviour as children are often not able to</p>	

<p>content. There is thus a need to continue to prohibit product placement in programmes with a significant children’s audience. Consumer affairs programmes are programmes offering advice to viewers, or including reviews on the purchase of products and services. Allowing product placement in such programmes would blur the distinction between advertising and editorial content for viewers who may expect a genuine and honest review of products or services in such programmes.</p>	<p>a need to continue to prohibit product placement in <b>children’s</b> programmes [...]. Consumer affairs programmes are programmes offering advice to viewers, or including reviews on the purchase of products and services. Allowing product placement in such programmes would blur the distinction between advertising and editorial content for viewers who may expect a genuine and honest review of products or services in such programmes.</p>	<p>recognise the commercial content. There is thus a need to continue to prohibit product placement in <b>children’s</b> programmes [...] <b>and content aimed primarily at children.</b> Consumer affairs programmes are programmes offering advice to viewers, or including reviews on the purchase of products and services. Allowing product placement in such programmes would blur the distinction between advertising and editorial content for viewers who may expect a genuine and honest review of products or services in such programmes.</p>	
<p>(17) The rule that a product should not be given undue prominence has proved difficult to apply in practice. It also restricts the take-up of product placement which, by definition, involves some level of prominent exposure to be able to generate value. The requirements for programmes containing product placement should thus focus on clearly informing the viewers of the existence of product placement and on ensuring that the</p>	<p><b>deleted</b></p>	<p><i>deleted</i></p> <p style="text-align: center;"><u><b>AMD 23</b></u></p>	

<p>audiovisual media service provider's editorial independence is not affected.</p>			
<p>(18) As the increase in the number of new services has led to a greater choice for viewers, broadcasters are given greater flexibility with regard to the insertion of advertising and teleshopping spots where this does not unduly impair the integrity of programme. Yet, in order to safeguard the specific character of the European television landscape, interruptions for cinematographic works and films made for television as well as for some categories of programmes that still need specific protection should remain limited.</p>	<p>[No change]</p>	<p>[No change]</p>	
<p>(19) While this Directive does not increase the overall amount of admissible advertising time during the period from 7:00 to 23:00, it is important for broadcasters to have more flexibility and to be able to decide when to place advertising in order to maximise advertisers' demand and viewers' flow. The hourly limit should thus be abolished</p>	<p>(19) [...] It is important for broadcasters to have more flexibility and to be able to decide when to place advertising in order to maximise advertisers' demand and viewers' flow. <b>Thus, for the period from 06:00 to 18:00, the limit of 20 % of advertising should be calculated on the basis of that period. In the same way, for the period from 18:00</b></p>	<p style="text-align: center;"><b><u>AMD 24</u></b></p> <p>(19) [...] <i>It</i> is important for broadcasters to have more flexibility and to be able to decide when to place advertising in order to maximise advertisers' demand and viewers' flow. The hourly limit should thus be abolished while a daily limit of 20% of advertising [...] should be introduced. <i>It is also necessary, however, to</i></p>	

<p>while a daily limit of 20% of advertising within the period from 7:00 to 23:00 should be introduced.</p>	<p><b>to 00:00, the limit of 20 % of advertising should be calculated on the basis of that period. [...]</b></p>	<p><i>maintain a sufficient level of consumer protection in that regard because such flexibility could expose viewers to an excessive amount of advertising during prime time. Specific limits should therefore apply within prime-time windows.</i></p>	
	<p><b>(19a) Neutral frames separate editorial content from television advertising or teleshopping spots, as well as separate individual spots. They allow the viewer to clearly distinguish when one type of audiovisual content ends and the other starts. It is necessary to clarify that neutral frames are excluded from the quantitative limit set out for television advertising. This is in order to ensure that the time used in neutral frames does not impact on the time used for advertising and that revenues generated from the advertising are not negatively affected.</b></p>		
<p>(20) Many broadcasters are part of larger media groups and make announcements not only in connection with their own</p>	<p>[No change]</p>	<p><u>AMD 25</u></p> <p>(20) Many broadcasters are part of larger [...] <b>broadcasting</b> groups and make announcements not only in connection with their</p>	

<p>programmes and ancillary products directly derived from those programmes but also in relation with programmes from other entities belonging to the same media group. Transmission time allotted to announcements made by the broadcaster in connection with programmes from other entities belonging to the same media group should not be included in the maximum amount of daily transmission time that may be allotted to advertising and teleshopping.</p>		<p>own programmes and ancillary products <b>and audiovisual media services</b> directly derived from those programmes but also in relation [...] to programmes, <b>products and services</b> from other entities belonging to the same [...] <b>broadcasting</b> group. Transmission time allotted to announcements made by the broadcaster in connection with programmes from other entities belonging to the same [...] <b>broadcasting</b> group should <b>also</b> not be included in the maximum amount of daily transmission time that may be allotted to advertising and teleshopping.</p>	
<p>(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that those are given enough prominence.</p>	<p>(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that those are given enough prominence. <b>Prominence is about promoting European works through facilitating access to such works. Prominence can be ensured through various means such as a dedicated section for</b></p>	<p><b><u>AMD 26</u></b></p> <p>(21) Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that those are given enough prominence. <b><i>This should allow users of on-demand audiovisual media services to easily discover and find European works, while promoting cultural diversity. To</i></b></p>	

	<p><b>European works that is accessible from the service homepage, possibility to search for European works in the search tool available as part of the service, the use of European works in campaigns of the service or a minimum percentage of European works promoted from the catalogue e.g. by using banners or similar tools.</b></p>	<p><i>that end, rights holders should be able to label their audiovisual content that qualifies as a European work as such in their metadata and make it available to media service providers.</i></p>	
<p>(22) In order to ensure adequate levels of investment on European works, Member States should be able to impose financial obligations to on-demand service providers established on their territory. Those obligations can take the form of direct contributions to the production of and acquisition of rights in European works. The Member States could also impose levies payable to a fund, on the basis of the revenues made with on-demand services that are provided in and targeted towards their territory. This Directive clarifies that, given the direct link between financial obligations and Member States' different cultural policies,</p>	<p>(22) In order to ensure adequate levels of investment on European works, Member States should be able to impose financial obligations to [...] <b>media</b> service providers established on their territory. Those obligations can take the form of direct contributions to the production of and acquisition of rights in European works. The Member States could also impose levies payable to a fund, on the basis of the revenues made with [...] <b>audiovisual media</b> services that are provided in and targeted towards their territory. This Directive clarifies that, given the direct link between financial obligations and Member States'</p>	<p><u><b>AMD 27</b></u></p> <p>(22) In order to ensure adequate levels of investment on European works, Member States should be able to impose financial obligations to on-demand service providers established [...] <i><b>under their jurisdiction</b></i>. Those obligations can take the form of direct contributions to the production of and acquisition of rights in European works. The Member States could also impose levies payable to a fund, on the basis of the revenues made with on-demand services that are provided in and targeted towards their territory. This Directive clarifies that, given the direct link between financial</p>	



<p>Member States are also allowed to impose such financial obligations on providers of on-demand services established in another Member State which are targeted towards its territory. In this case financial obligations should only be charged on the revenues generated through the audience in that Member State.</p>	<p>different cultural policies, a Member State [...] is also allowed to impose such financial obligations on <b>media service</b> providers [...] established in another Member State which are targeted towards its territory. In this case financial obligations should only be charged on the revenues generated through the audience in [...] <b>the targeted</b> Member State.</p> <p><i>(EP last sentence is covered in recital 24)</i></p>	<p>obligations and Member States' different cultural policies, Member States are also allowed to impose such financial obligations on providers of on-demand services established in another Member State which are targeted towards its territory. In this case financial obligations should only be charged on the revenues <i>made with on-demand services and</i> generated through the audience in that Member State. <i>If the Member State where the provider is established imposes a financial contribution, it should take into account any financial contributions imposed by the targeted state.</i></p>	
<p>(23) When assessing on a case-by-case basis whether an on-demand audiovisual media service established in another Member State is targeting audiences in its territory, a Member State shall refer to indicators such as advertisement or other promotions specifically aiming at customers in its territory, the main language of the service or the existence of content or</p>	<p>[No change]</p>		

<p>commercial communications aiming specifically at the audience in the Member State of reception.</p>			
<p>(24) When Member States impose financial contributions to providers of on-demand services such contributions shall seek an adequate promotion of European works. while avoiding risks of double imposition for service providers. With this view, if the Member State where the provider is established imposes a financial contribution, it shall take into account any financial contributions imposed by targeted Member States.</p>	<p>(24) When Member States impose financial contributions to <b>media service</b> [...] providers, such contributions [...] <b>should</b> seek an adequate promotion of European works while avoiding risks of double imposition for <b>media</b> service providers. With this view, if the Member State where the <b>media service</b> provider is established imposes a financial contribution, it [...] <b>should</b> take into account any financial contributions imposed by targeted Member States.</p>	<p>[No change]</p>	
<p>(25) In order to ensure that obligations on promotion of European works do not undermine market development and to allow for the entry of new players in the market, companies with no significant presence on the market should not be subject to such requirements. This is in particular the case for companies with a low turnover and low audiences and small and micro enterprises as defined in Commission Recommendation</p>	<p>(25) In order to ensure that obligations on promotion of European works do not undermine market development and to allow for the entry of new players in the market, companies with no significant presence on the market should not be subject to such requirements. This is in particular the case for companies with a low turnover and low audience [...]. <b>Low audience can be determined for instance on the basis of a viewing time or sales,</b></p>	<p>[No change]</p>	

<p>2003/361/EC<sup>13</sup>. It could also be inappropriate to impose such requirements in cases where – given the nature or theme of the on-demand audiovisual media services– they would be impracticable or unjustified.</p>	<p><b>depending on the nature of the service, while the determination of low turnover should take into account the different sizes of audiovisual markets in Member States.</b> It could also be inappropriate to impose such requirements in cases where - given the nature or theme of the on-demand audiovisual media services - they would be impracticable or unjustified.</p>		
<p>(26) There are new challenges, in particular in connection with video-sharing platforms, on which users - particularly minors - increasingly consume audiovisual content. In this context, harmful content and hate speech stored on video-sharing platforms have increasingly given rise to concern. It is necessary, in order to protect minors from harmful content and all citizens from content containing incitement to violence or hatred, to set out proportionate rules on those matters.</p>	<p>(26) There are new challenges, in particular in connection with video-sharing platforms, [...] on which users - particularly minors - increasingly consume audiovisual content. In this context, harmful content and hate speech stored on video-sharing platforms have increasingly given rise to concern. It is necessary, in order to protect minors from harmful content and [...] <b>the general public</b> from content containing incitement to violence, [...] <b>hatred and terrorism</b>, to set out proportionate rules on those matters.</p>	<p style="text-align: center;"><u><b>AMD 28</b></u></p> <p>(26) There are new challenges, in particular in connection with video-sharing platforms, on which users - particularly minors - increasingly consume audiovisual content. [...] <b>Illegal, harmful, racist and xenophobic content and hate speech [...] hosted</b> on video-sharing platforms have increasingly given rise to concern. <b>In addition, the decision to remove such content, being often dependent on a subjective interpretation, can undermine the freedom of expression and information. In this context,</b> it is necessary, in</p>	

<sup>13</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

		<p>order to protect minors from harmful content and all citizens from content containing incitement to violence or hatred <b><i>hosted on video-sharing platforms, and also to protect and guarantee the fundamental rights of users</i></b>, to set out <b><i>common and</i></b> proportionate rules on those matters. <b><i>Such rules should, in particular, further define at Union level the characteristics of "harmful content" and "incitement to violence and hatred", taking into account the intention and effect of such content. Self-regulatory and co-regulatory measures implemented or approved by Member States or by the Commission should fully respect the rights, freedoms and principles set out in the Charter, in particular Article 52 thereof. Regulatory authorities and/or bodies should retain effective enforcement powers in this regard.</i></b></p>	
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<p>(27) As regards commercial communications on video-sharing platforms, they are already regulated by Directive 2005/29/EC of the European Parliament and of the Council, which prohibits unfair business-to-consumer commercial practices, including misleading and aggressive practices occurring in information society services. As regards commercial communications concerning tobacco and related products in</p>	<p>(27) <b><u>[...] As video-sharing platforms are increasingly used to consume audiovisual content, sufficient level of consumer protection should be ensured on these platforms. It is therefore important that commercial communications on video-sharing platforms are subject to identification rules and a basic tier of qualitative requirements. More specifically, commercial communications on video-</u></b></p>	<p style="text-align: center;"><b><u>AMD 30</u></b></p> <p>(27) As regards commercial communications on video-sharing platforms, they are already regulated by Directive 2005/29/EC of the European Parliament and of the Council, which prohibits unfair business-to-consumer commercial practices, including misleading and aggressive practices occurring in information society services. As regards commercial communications concerning tobacco and related products in</p>	

<p>video-sharing platforms, the existing prohibitions provided for in Directive 2003/33/EC of the European Parliament and of the Council, as well as the prohibitions applicable to communications concerning e-cigarettes and refill containers pursuant to Directive 2014/40/EU of the European Parliament and of the Council, ensure that consumers are sufficiently protected. The measures set out in this Directive therefore complement those set out in Directives 2005/29/EC, 2003/33/EC and 2014/40/EU.</p>	<p><b>sharing platform services</b> are already regulated by Directive 2005/29/EC of the European Parliament and of the Council, which prohibits unfair business-to-consumer commercial practices, including misleading and aggressive practices occurring in information society services. As regards commercial communications concerning tobacco and related products in video-sharing platforms, the existing prohibitions provided for in Directive 2003/33/EC of the European Parliament and of the Council, as well as the prohibitions applicable to communications concerning e-cigarettes and refill containers pursuant to Directive 2014/40/EU of the European Parliament and of the Council, ensure that consumers are sufficiently protected. The measures set out in this Directive therefore complement those set out in Directives 2005/29/EC, 2003/33/EC and 2014/40/EU.</p>	<p>video-sharing platforms, the existing prohibitions provided for in Directive 2003/33/EC of the European Parliament and of the Council, as well as the prohibitions applicable to communications concerning e-cigarettes and refill containers pursuant to Directive 2014/40/EU of the European Parliament and of the Council, ensure that consumers are sufficiently protected <b>and should be applied to all audiovisual media services</b>. The measures set out in this Directive therefore complement those set out in Directives 2005/29/EC, 2003/33/EC and 2014/40/EU <b>and establish a common level playing field for audiovisual media services, video-sharing platform services and user-generated videos</b>.</p>	
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	<p><b><u>(27a). Audiovisual commercial communications for alcoholic beverages in on-demand audiovisual media services, excluding sponsorship and product placement, should comply with the criteria applicable to television advertising and teleshopping for alcoholic beverages as provided by this Directive. The more detailed criteria applicable to television advertising and teleshopping for alcoholic beverages are limited to spot advertising, which is by nature separated from the programme, and therefore excludes other commercial communications which are linked to the programme or are an integral part of the programme, such as sponsorship and product placement. Consequently, these criteria should not apply to sponsorship and product placement in on-demand audiovisual services.</u></b></p>		
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<p>(28) An important share of the content stored on video-sharing platforms is not under the editorial responsibility of the video-sharing platform provider. However, those providers typically determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms. Therefore, those providers should be required to take appropriate measures to protect minors from content that may impair their physical, mental or moral development and protect all citizens from incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, race, colour, religion, descent or national or ethnic origin.</p>	<p>(28) An important share of the content stored on video-sharing platforms is not under the editorial responsibility of the video-sharing platform provider. However, those providers typically determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms. Therefore, those providers should be required to take appropriate measures to protect minors from content that may impair their physical, mental or moral development and protect [...] <b>the general public from content containing</b> incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, [...] <b>racial or ethnic origin, [...] nationality, religion or belief, [...] disability, age or sexual orientation, and content containing public provocation to commit a terrorist offence.</b></p>	<p style="text-align: center;"><b><u>AMD 31</u></b></p> <p>(28) [...] <b><i>Some</i></b> of the content [...] <b><i>hosted</i></b> on video-sharing <b><i>or social media</i></b> platforms is not under the editorial responsibility of the [...] platform provider. However, those providers typically determine the organisation of the content, namely programmes or user-generated videos, including by automatic means or algorithms. Therefore, those providers should be required to take appropriate measures to protect minors from content that may impair their physical, mental or moral development and protect all [...] <b><i>users from incitement to terrorism or</i></b> from incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to [...] <b><i>race, colour, ethnic or social origin, genetic features, language, religion or belief, [...] political or any other opinion, membership of a national [...] minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health. Those grounds are intended to</i></b></p>	
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		<i>further specify the characteristics of "publicly inciting to violence or hatred" but should not alone be considered as a basis for restricting the making available of audiovisual content.</i>	
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<p>(29) In light of the nature of the providers' involvement with the content stored on video-sharing platforms, those appropriate measures should relate to the organisation of the content and not to the content as such. The requirements in this regard as set out in this Directive should therefore apply without prejudice to Article 14 of Directive 2000/31/EC of the European Parliament and of the Council<sup>14</sup>, which provides for an exemption from liability for illegal information stored by certain providers of information society services. When providing services covered by Article 14 of Directive 2000/31/EC, those requirements should also apply without prejudice to Article 15 of that Directive, which precludes general obligations to monitor such information and to actively seek facts or circumstances indicating illegal activity from</p>	<p>[No change]</p>	<p style="text-align: center;"><b><u>AMD 32</u></b></p> <p>(29) In light of the nature of the providers' [...] <i>relationship</i> with the content [...] <i>hosted</i> on video-sharing platforms, those appropriate measures should relate to the organisation of the content and not to the content as such. The requirements in this regard as set out in this Directive should therefore apply without prejudice to Article 14 of Directive 2000/31/EC of the European Parliament and of the Council<sup>14</sup>, which provides for an exemption from liability for illegal information stored by certain providers of information society services. When providing services covered by Article 14 of Directive 2000/31/EC, those requirements should also apply without prejudice to Article 15 of that Directive, which precludes general obligations to monitor such information and to actively seek facts or circumstances</p>	
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<sup>14</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.07.2000, p. 1).

<p>being imposed on those providers, without however concerning monitoring obligations in specific cases and, in particular, without affecting orders by national authorities in accordance with national legislation.</p>		<p>indicating illegal activity from being imposed on those providers, without however concerning monitoring obligations in specific cases and, in particular, without affecting orders by national authorities in accordance with national legislation.</p>	
	<p><b>(29a) The measures applicable to video-sharing platforms are designed to deal only with stored content. Consequently, this Directive is without prejudice to the ability of Member States to impose obligations on providers of livestreaming services in conformity with Union law.</b></p>		
<p>(30) It is appropriate to involve the video-sharing platform providers as much as possible when implementing the appropriate measures to be taken pursuant to this Directive. Co-regulation should therefore be encouraged. With a view to ensuring a clear and consistent approach in this regard across the Union, Member States should not be entitled to require video-sharing platform</p>	<p>(30) It is appropriate to involve the video-sharing platform providers as much as possible when implementing the appropriate measures to be taken pursuant to this Directive. Co-regulation should therefore be encouraged. <b>It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis. This Directive envisages several</b></p>	<p style="text-align: center;"><b><u>AMD 33</u></b></p> <p>(30) It is appropriate to involve the video-sharing platform providers as much as possible when implementing the appropriate measures to be taken pursuant to this Directive. <b>Self-regulation and co-regulation</b> should therefore be encouraged. <b>[...] It</b> should remain possible for Member States to take stricter measures where content is illegal, provided that they</p>	

<p>providers to take stricter measures to protect minors from harmful content and all citizens from content containing incitement to violence or hatred than the ones provided for in this Directive. However, it should remain possible for Member States to take such stricter measures where that content is illegal, provided that they comply with Articles 14 and 15 of Directive 2000/31/EC, and to take measures with respect to content on websites containing or disseminating child pornography, as required by and allowed under Article 25 of Directive 2011/93/EU of the European Parliament and the Council<sup>15</sup>. It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis.</p>	<p><b>measures that video-sharing platform providers should take in order [...]</b> to protect minors from harmful content and [...]  <b>protect the general public</b> from content containing incitement to violence, [...]  <b>hatred and terrorism [...]. At the same time, Member States may impose on video-sharing platform providers more detailed or stricter measures, assuring that such measures comply with the requirements set out by Union law. [...]</b> It should <b>also</b> remain possible for Member States to take such stricter measures where that content is illegal, provided that they comply with Articles 14 and 15 of Directive 2000/31/EC, and to take measures with respect to content on websites containing or disseminating child pornography, as required by and allowed under Article 25 of Directive 2011/93/EU of the European Parliament and the Council<sup>15</sup>. [...]</p>	<p>comply with Articles 14 and 15 of Directive 2000/31/EC, and to take measures with respect to content on websites containing or disseminating child pornography, as required by and allowed under Article 25 of Directive 2011/93/EU of the European Parliament and the Council<sup>15</sup>. It should also remain possible for video-sharing platform providers to take stricter measures on a voluntary basis <i>in accordance with Union law, respecting the freedom of expression and information and media pluralism.</i></p>	
<p>(31) When taking the appropriate measures to protect minors from harmful content and to protect all</p>	<p>(31) When taking the appropriate measures to protect minors from harmful content and to protect</p>	<p>[No change]</p>	

<sup>15</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

<p>citizens from content containing incitement to violence or hatred in accordance with this Directive, the applicable fundamental rights, as laid down in the Charter on Fundamental Rights of the European Union, should be carefully balanced. That concerns in particular, as the case may be, the right to respect for private and family life and the protection of personal data, the freedom of expression and information, the freedom to conduct a business, the prohibition of discrimination and the right of the child.</p>	<p><b>[...] general public</b> from content containing incitement to violence, [...] hatred <b>and terrorism</b> in accordance with this Directive, the applicable fundamental rights, as laid down in the Charter on Fundamental Rights of the European Union, should be carefully balanced. That concerns in particular, as the case may be, the right to respect for private and family life and the protection of personal data, the freedom of expression and information, the freedom to conduct a business, the prohibition of discrimination and the right of the child.</p>		
<p>(32) The video-sharing platform providers covered by this Directive provide information society services within the meaning of point (a) of Article 2 of Directive 2000/31/EC. Those providers are consequently subject to the rules on the internal market set out in Article 3 of that Directive, if they are established in a Member State. It is appropriate to ensure that the same rules apply to video-sharing platform providers which are not</p>	<p>(32) The video-sharing platform providers covered by this Directive provide information society services within the meaning of point (a) of Article 2 of Directive 2000/31/EC. Those providers are consequently subject to the rules on the internal market set out in Article 3 of that Directive, if they are established in a Member State. It is appropriate to ensure that the same rules apply to video-sharing platform providers which are not</p>	<p style="text-align: center;"><b><i>AMD 34</i></b></p> <p>(32) Video-sharing platform providers covered by this Directive provide information society services within the meaning of point (a) of Article 2 of Directive 2000/31/EC <b><i>and generally provide hosting services in accordance with Article 14 of that Directive.</i></b> Those providers are consequently subject to the rules on the internal market set out in Article 3 of that Directive, if they are established in a</p>	

<p>established in a Member State with a view to safeguarding the effectiveness of the measures to protect minors and citizens set out in this Directive and ensuring a level playing field in as much as possible, in as far as those providers have either a parent company or a subsidiary which is established in a Member State or where those providers are part of a group and another entity of that group is established in a Member State. To that effect, arrangements should be made to determine in which Member State those providers should be deemed to have been established. The Commission should be informed of the providers under each Member State's jurisdiction in application of the rules on establishment set out in this Directive and in Directive 2000/31/EC.</p>	<p>established in a Member State with a view to safeguarding the effectiveness of the measures to protect minors and [...] <b>the general public</b> set out in this Directive and ensuring a level playing field in as much as possible, in as far as those providers have a parent [...] <b>undertaking</b> or a subsidiary <b>undertaking</b> which is established in a Member State, or where those providers are part of a group and another [...] <b>undertaking</b> of that group is established in a Member State. [...] The Commission should be informed of the providers under each Member State's jurisdiction in application of the rules on establishment set out in this Directive and in Directive 2000/31/EC.</p>	<p>Member State. It is appropriate to ensure that the same rules apply to video-sharing platform providers which are not established in a Member State with a view to safeguarding the effectiveness of the measures to protect minors and citizens set out in this Directive and ensuring a level playing field in as much as possible, in as far as those providers have either a parent company or a subsidiary which is established in a Member State or where those providers are part of a group and another entity of that group is established in a Member State. To that effect, arrangements should be made to determine in which Member State those providers should be deemed to have been established. <i>Given the wide audience of video-sharing platforms and social media, it is appropriate that the Member State having jurisdiction over such a platform coordinate with the other Member States concerned for the regulation of those platforms.</i> The Commission should be informed of the providers under each Member State's jurisdiction in application of the rules on</p>	
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		<p>establishment set out in this Directive and in Directive 2000/31/EC. <i>In this regard, the concept of ‘video-sharing platform provider’ should be understood in the broadest sense of the term, so as to include linear service providers and platforms for the retransmission of audiovisual media services, regardless of the technical means used for retransmission, such as cable, satellite or the internet.</i></p>	
<p>(33) Regulatory authorities of the Member States can achieve the requisite degree of structural independence only if established as separate legal entities. Member States should therefore guarantee the independence of the national regulatory authorities from both the government, public bodies and the industry with a view to ensuring the impartiality of their decisions. This requirement of independence should be without prejudice to the possibility for Member States to establish regulators having oversight over different sectors, such as audiovisual and telecom. National</p>	<p>(33) <b>Member States should ensure that their national regulatory authorities are legally distinct from the government. However, this should not preclude Member States from exercising supervision in accordance with their national constitutional law. Regulatory authorities or bodies of the Member States should be considered to have achieved the requisite degree of [...] independence [...] if those regulatory authorities or bodies, including those that are constituted as public authorities or bodies, are functionally and effectively independent of their</b></p>	<p style="text-align: center;"><u>AMD 35</u></p> <p>(33) [...] Member States should [...] guarantee the independence of the regulatory authorities <i>and/or bodies</i> from both the government, public bodies and the industry with a view to ensuring the impartiality of their decisions. This requirement of independence should be without prejudice to the possibility for Member States to establish regulators having oversight over different sectors, such as audiovisual and tele<b>communications</b>. [...] Regulatory authorities <i>and/or bodies</i> should be in possession of the enforcement powers and</p>	

<p>regulatory authorities should be in possession of the enforcement powers and resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of national regulatory authorities established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition.</p>	<p><b>respective governments and of any other public or private body. [...] This is considered essential</b> to ensure the impartiality of [...] decisions <b>taken by a national regulatory authority or body. The</b> requirement of independence should be without prejudice to the possibility for Member States to establish regulators having oversight over different sectors, such as <b>the audiovisual and telecommunications sectors.</b> National regulatory authorities should be in possession of the enforcement powers and resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of national regulatory authorities established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition.</p>	<p>resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of regulatory authorities <i>and/or bodies</i> established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition. <b><i>In that respect, it is necessary that regulatory authorities and/or bodies support audiovisual media services providers in the exercise of their editorial independence.</i></b></p>	
<p>(34) Any party subject of a decision of a national regulatory authority should have the right to appeal to a body that is independent from the parties involved. Such body may be a court. The appeal</p>	<p>(34) <b>Effective appeal mechanisms should exist at national level. [...] The relevant appeal body should be</b> independent from the parties involved. Such body may be a court. The appeal procedure</p>	<p>[No change]</p>	



procedure should be without prejudice to the division of competences within national judicial systems.	should be without prejudice to the division of competences within national judicial systems.		
(35) With a view to ensuring the consistent application of the Union audiovisual regulatory framework across all Member States, the Commission established ERGA by Commission Decision of 3 February 2014 <sup>16</sup> . ERGA's role is to advise and assist the Commission in its work to ensure a consistent implementation of Directive 2010/13/EU in all Member States, and to facilitate cooperation among the national regulatory authorities, and between the national regulatory authorities and the Commission.	(35) With a view to ensuring the consistent application of the Union audiovisual regulatory framework across all Member States, the Commission established ERGA by Commission Decision of 3 February 2014 <sup>16</sup> . ERGA's role is to [...] <b>provide technical expertise</b> to the Commission in its work to ensure a consistent implementation of Directive 2010/13/EU in all Member States, and to facilitate cooperation among the national regulatory authorities, and between the national regulatory authorities and the Commission.	<b><u>AMD 35</u></b>  (35) With a view to ensuring the consistent application of the Union audiovisual regulatory framework across all Member States, the Commission established <b>the</b> ERGA by Commission Decision of 3 February 2014 <sup>16</sup> . <b>The</b> ERGA's role is to [...] <b>act as an independent expert advisory group</b> and assist the Commission in its work to ensure a consistent implementation of Directive 2010/13/EU in all Member States, and to facilitate cooperation among the [...] regulatory authorities <b>and/or bodies</b> , and between the [...] regulatory authorities <b>and/or bodies</b> and the Commission.	
(36) ERGA has made a positive contribution towards consistent	(36) ERGA has made a positive contribution towards consistent	<b><u>AMD 37</u></b>  (36) <b>The ERGA and the contact committee have</b> made a positive	

<sup>16</sup> Commission Decision C(2014) 462 final of 3 February 2014 on establishing the European Regulators Group for Audiovisual Media Services.

<p>regulatory practice and has provided high level advice to the Commission on implementation matters. This calls for the formal recognition and reinforcement of its role in this Directive. The group should therefore be re-established by virtue of this Directive.</p>	<p>regulatory practice and has provided high level advice to the Commission on implementation matters. This calls for the formal recognition and reinforcement of its role in this Directive. The group should therefore be [...] <b>established</b> by virtue of this Directive.</p>	<p>contribution towards consistent regulatory practice and <i>have</i> provided high level <i>and independent</i> advice to the Commission on implementation matters. [...]</p>	
<p>(37) The Commission should be free to consult ERGA on any matter relating to audiovisual media services and video-sharing platforms. ERGA should assist the Commission by providing its expertise and advice and by facilitating exchange of best practices. In particular, the Commission should consult ERGA in the application of Directive 2010/13/EU with a view to facilitating its convergent implementation across the Digital Single Market. Upon the Commission's request, ERGA should provide opinions, including on jurisdiction and Union codes of conduct in the area of protection of minors and hate speech as well as audiovisual commercial communications for foods high in fat, salt/sodium and</p>	<p>(37) The Commission should be free to consult ERGA on any matter relating to audiovisual media services and video-sharing platforms. ERGA should assist the Commission by providing [...] <b>technical</b> expertise and advice and by facilitating <b>the exchange of best practices, including on self- and co-regulatory codes of conduct.</b> In particular, the Commission should consult ERGA in the application of Directive 2010/13/EU with a view to facilitating its convergent implementation [...]. Upon the Commission's request, ERGA should provide <b>non-binding</b> opinions [...] on jurisdiction, <b>on measures derogating from freedom of reception and on measures addressing circumvention of jurisdiction.</b></p>	<p style="text-align: center;"><u><b>AMD 38</b></u></p> <p>(37) The Commission should be free to consult [...] <i>the contact committee</i> on any matter relating to audiovisual media services and video-sharing platforms. <b>It should also be possible for the ERGA [...] to assist the Commission by providing its expertise and advice and by facilitating exchange of best practices. [...]</b> The Commission should <b>be able to consult [...] the contact committee</b> in the application of Directive 2010/13/EU with a view to facilitating its [...] <b>consistent</b> implementation across the Digital Single Market. [...] <b>The contact committee should [...] decide on</b> opinions, including on jurisdiction and Union <b>rules and</b> codes of conduct in the area of protection</p>	

sugars.	<b>ERGA should also be able to provide technical advice on any regulatory matter related to audiovisual media service framework, including [...] in the area of protection of minors and hate speech, as well as on the content of audiovisual commercial communications for foods high in fat, salt/sodium and sugars.</b>	of minors and hate speech as well as for audiovisual commercial communications for foods high in fat, salt/sodium and sugars <i>drafted by the ERGA, in order to facilitate coordination with the law of the Member States.</i>	
(38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure discoverability and accessibility of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. In this respect, Member States should in particular examine the need for regulatory intervention against the results of the outcome of market forces. Where Member States decide to impose	[No change]	<p style="text-align: center;"><b><u>AMD 39</u></b></p> (38) This Directive is without prejudice to the ability of Member States to impose obligations to ensure [...] <i>the appropriate prominence</i> of content of general interest under defined general interest objectives such as media pluralism, freedom of speech and cultural diversity. Such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Union law. Where Member States decide to impose [...] rules <i>on appropriate prominence</i> , they should only impose proportionate obligations on	

<p>discoverability rules, they should only impose proportionate obligations on undertakings, in the interest of legitimate public policy considerations.</p>		<p>undertakings, in the interest of legitimate public policy considerations.</p>	
		<p style="text-align: center;"><b><u>AMD 40</u></b></p> <p><i>(38a) The means to achieve accessibility should include, but not be limited to, access services such as sign language interpretation, subtitling for the deaf and hard of hearing, spoken subtitles, audio-description, and easily understandable menu navigation. Media service providers should be transparent and proactive in improving such access services for persons with disabilities and for the elderly, indicating clearly in the programme information as well as in the electronic programming guide their availability, listing and explaining how to use the accessibility features of the services, and ensuring that they are accessible for persons with disabilities.</i></p>	

<p>(39) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for the right to freedom of expression, the freedom to conduct a business, the right to judicial review and to promote the application of the rights of the child enshrined in the Charter of Fundamental Rights of the European Union.</p>	<p>[No change]</p>	<p style="text-align: center;"><b><u>AMD 41</u></b></p> <p>(39) <b><i>Member States, when implementing this Directive, are under the obligation to respect fundamental rights and observe the principles recognised in particular by the Charter [...]. In particular, Member States should ensure that national laws, regulations and administrative provisions transposing this Directive [...] do not directly or indirectly undermine the right to freedom of expression, the freedom to conduct a business, the right to judicial review and to promote the application of the rights of the child and the right to non-discrimination enshrined in the Charter [...].</i></b></p>	
	<p><b>(39a) Transparency of media ownership is directly linked to the freedom of expression, a cornerstone of democratic systems. Information concerning the ownership structure of audiovisual media service providers, where such ownership results in the control</b></p>		

	<p>or the exercise of a significant influence over the content of the services provided, allows users to make an informed judgement about such content. Member States should be able to determine whether and to what extent information about the ownership of a media service provider should be accessible to users, provided that the essence of the fundamental rights and freedoms concerned is respected and that such measures are necessary and proportionate. Member States should also be able to determine whether and to what extent it is necessary and proportionate that politically exposed persons declare their ownership of media service providers and that information concerning such ownership should be accessible to users, provided that the essence of the fundamental rights and freedom concerned is respected.</p>		
	<p>(39b) Because of the specific nature of audiovisual media services, especially the impact of these services on the way people form their opinions, users have a legitimate interest in knowing</p>		

	<p><b>who is responsible for the content of these services. In order to strengthen freedom of expression, and by extension, to promote media pluralism and to avoid conflicts of interest, it is important for Member States to ensure that users have easy and direct access at any time to information about media service providers. It is for each Member State to decide, in particular with respect to the information which may be provided on ownership structure, beneficial owners and politically exposed persons, how this objective can be achieved without prejudice to any other relevant provisions of Union law and ensuring, in particular, full compliance with the provisions of the General Data Protection Regulation (EU) 2016/679 and Articles 7, 8 and 52 of the Charter.</b></p>		
<p>(40) The right to access political news programmes is crucial to safeguard the fundamental freedom to receive information and to ensure that the interests of viewers in the Union are fully and properly protected. Given the ever growing importance of</p>	<p>[No change]</p>	<p>[No change]</p>	

<p>audiovisual media services for societies and democracy, broadcasts of political news should, to the best extent possible, and without prejudice to copyright rules, be made available cross-border in the EU.</p>			
<p>(41) This Directive does not concern rules of private international law, in particular rules governing the jurisdiction of the courts and the law applicable to contractual and non-contractual obligations.</p>	<p>[No change]</p>	<p>[No change]</p>	
<p>(42) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>17</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures by one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.</p>	<p>[No change]</p>	<p>[No change]</p>	

<sup>17</sup> OJ C 369, 17.12.2011, p. 14.



		<b>(42a) Member States should take all the necessary measures to ensure the correct, timely and effective transposition and application of this Directive.</b>	
(43) Directive 2010/13/EU should therefore be amended accordingly,  HAVE ADOPTED THIS DIRECTIVE:	[No change]	[No change]	