



Council of the
European Union

Brussels, 18 October 2018
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Interinstitutional File:
2016/0151(COD)

13052/18
ADD 1

CODEC 1648
AUDIO 77
DIGIT 197
CONSOM 276
TELECOM 333

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft 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 (Audiovisual Media Services Directive) in view of changing market realities **(first reading)**

- Adoption of the legislative act
- Statements

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Statement by Latvia

The Republic of Latvia draws attention to the fact that the legal expression '*veikt uzņēmējdarbību*', which is used in the Latvian-language version of the Directive in relation to the place of establishment of audiovisual media service providers, means 'to conduct business'. It therefore differs substantially from the legal meaning of the phrase 'to be established', which is used in the English-language version of the text and the translations into other languages.

The Republic of Latvia notes that inconsistent and inaccurate usage of such fundamental legal terminology creates legal uncertainty, with unpredictable consequences. It not only risks disrupting the legal parallelism between the various language versions of the Directive, but could also lead to legal uncertainty and discrepancies in legal interpretation when transposing the Directive into Member States' national law. This could prove to be particularly problematic in the context of cross-border services, including on-demand services and video-sharing platforms.

The Republic of Latvia notes that the phrase 'to be established' is used in a similar context in Article 49 of the Treaty on the Functioning of the European Union, where it is translated into Latvian as '*izveidot*'. Although the term '*izveidot*' comes closer to the meaning of establishing a company, we would propose using the term '*dibināt*' ('to found or establish'), which is a more accurate translation and would prevent misinterpretation and legal uncertainty.

The Republic of Latvia intends to initiate the corrigendum procedure for the Directive, in order to ensure consistent and correct use of terminology.

Joint Statement by Finland, Ireland and the Netherlands

We, the undersigned Member States consider the promotion of the digital single market highly important and acknowledge the need for the review of regulatory framework for audiovisual media services taking into account changes in the market, consumption and technology.

The protection of minors from harmful content and the protection of all citizens against hate is in itself a legitimate aim. However, as stated consistently during the negotiations, the AVMS Directive is not the correct place for regulating video sharing platforms since the rest of the scope of the directive covers only AV media services where the service provider has editorial responsibility for the content of the program. The proposed regulation of video sharing platforms is difficult to control and it can cause undesired side effects and disproportionate administrative burden. Rather than overregulating video sharing platforms, a strong emphasis should be placed on promoting critical media literacy and media education in the Member States.

We consider that this lack of clarity compounded by a lack of impact assessments and a robust evidence base, could undermine the legal certainty needed for regulators and industry to implement the provisions in a clear, consistent and effective way and for industry to innovate. It also may threaten the ability of European citizens to exercise their fundamental rights in particular their freedom of expression.

For the reasons stated here and during the negotiations on this proposal, we will vote against the directive when it comes up for adoption as an "I" item in Coreper on 24.10.2018 and as an "A" item in the Council on 6.11.2018 (PE-CONS 33/18). Finland, Ireland and the Netherlands ask the Secretariat General of the Council to include this statement to the respective minutes of these two meetings.
