

PART 1 – SUMMARY OF THE AUDIOVISUAL MEDIA SERVICES DIRECTIVE

Introduction

1. The Audiovisual Media Services (AVMS) Directive revises and updates the Television Without Frontiers (TVWF) Directive, which has regulated television broadcasting, and in particular cross-border television broadcasting, in the EU since 1989.
2. The TVWF Directive has required every EU Member State to impose certain minimum standards on scheduled television services which originate in its jurisdiction. It has also required every Member State to ensure freedom of reception of scheduled television services from other Member States.
3. Member States can if they wish place their own extra content requirements onto television broadcast services which originate in their own jurisdiction. However, they cannot impose these additional standards on television broadcasts which originate from other EU Member States, even if these can be received in their own territory.
4. The TVWF Directive has therefore created a 'single market' in television broadcasting services across the EU. Member States are required to allow free reception of services from around the EU. At the same time, EU law guarantees minimum content standards for these services.

Extended scope

5. The most significant change introduced by the AVMS Directive is to extend the scope of the Directive. The TVWF Directive applied to scheduled television broadcasting services only. However, the AVMS Directive also applies to some on-demand services.
6. The AVMS Directive defines in some detail the types of 'on-demand' service which it covers, and Part 2 of this consultation document contains a discussion of this definition and its incorporation into UK law. However, the key point is that the Directive extends EU regulation to 'video-on-demand' services whose principal content is in the form of programmes and which compete for the same audience as television broadcasting. Taken together, these video-on-demand services and scheduled television broadcasting services make up the overall class of 'audiovisual media services' which the AVMS Directive is intended to regulate at the EU level.
7. The Directive also clarifies the status of television broadcasting services distributed exclusively on the Internet, by means of mobile phones, or by any other non-traditional platform. Under the Directive these services will be subject to the same regulatory regime as television broadcasting services on conventional platforms such as satellite, terrestrial or cable.

Three tiers of regulation

8. The AVMS Directive contains three distinct tiers of regulatory requirements which each Member State must apply to the audiovisual media services within its jurisdiction.

9. The **first tier of requirements** is set out in Articles 3a to 3g, and applies to all audiovisual media services, both scheduled and on-demand. Articles 3a to 3g require Member States to:
- ensure that service providers under their jurisdiction make certain information available to users, including at least their name, address and contact details, and their regulatory body (Article 3a);
 - ensure that services under their jurisdiction do not contain any incitement to hatred on grounds of race, sex, religion or nationality (Article 3b);
 - encourage service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability (Article 3c);
 - ensure that service providers under their jurisdiction do not transmit films outside periods agreed with rights holders (Article 3d);
 - ensure certain minimum standards in relation to advertising content (Article 3e);
 - ensure that sponsorship of programmes and services meets certain requirements (Article 3f); and
 - prohibit product placement, subject to certain defined exceptions which Member States can choose whether or not to adopt (Article 3g).
10. The **second tier of requirements** applies to on-demand services only. It is set out in Articles 3h and 3i. These Articles require Member States to:
- ensure that services whose content might be harmful to minors are made available only in ways that ensure that minors will not normally hear or see them (Article 3h); and
 - ensure that on-demand services promote the production of and access to European (including home-produced) work, where practicable and by appropriate means (Article 3i).
11. The **third tier of requirements** applies mainly to scheduled television broadcasting. It is set out in Articles 3j and 3k and from Articles 4 through to 23. These Articles repeat the requirements which the TVWF Directive made in respect of:
- public access to major sports and other events on free television (Article 3j);
 - quotas of European and independently-produced work in television broadcasting (Articles 4 and 5);
 - protection of minors in television broadcasting (Article 22); and
 - a right of reply to television broadcasts, or an equivalent remedy (Article 23).

12. They include significant relaxations in the rules on the amount of advertising which may be shown on television and changes to the rules on when advertising breaks can be included in programmes (Articles 10 to 20).
13. They also introduce a provision allowing broadcasters to take short extracts of other broadcasters' exclusive coverage of events for the purpose of including them in news reports in television broadcasting and allowing limited subsequent use in on-demand services (Article 3k).

Other changes in the AVMS Directive

14. The AVMS Directive also makes two other changes to the rules in the previous TVWF Directive. Both these changes concern television broadcasting services only.
15. The AVMS Directive:
 - changes the rules determining which Member State has jurisdiction over satellite television channels established outside the EU which can be received within the EU (Article 2.4); and
 - enhances existing procedures under which a Member State can raise concerns about television broadcasts received from a broadcaster established in another Member State which do not comply with the first Member State's own domestic rules (Articles 3.2 to 3.5).