



European Economic and Social Committee

TEN/524
Preparing a fully converged
Audio-visual World (Green
Paper)

Brussels, 18 September 2013

OPINION

of the

European Economic and Social Committee

on

Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values
(Green Paper)

COM(2013) 231 final

Rapporteur: Mr Pegado Liz

On 8 July 2013, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on

*Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values
(Green Paper)*

COM(2013) 231 final.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 September 2013.

At its 492nd plenary session, held on 18 and 19 September 2013 (meeting of 18 September), the European Economic and Social Committee adopted the following opinion by 175 votes to 2 with 8 abstentions:

*

* *

1. Conclusions and recommendations

- 1.1 The EESC welcomes the Commission initiative to reopen the file on a converged audiovisual policy, with a view to taking the opportunity to broaden access to diversified European content and to launch new public consultation to address particularly this issue's impact on economic growth, employment and innovation at EU level.
- 1.2 The EESC regrets, however, that the Commission has not seized this opportunity to put forward more tangible and structured proposals on the matter.
- 1.3 The Committee would have liked the Commission, when drawing up the Green Paper, to have focused its approach more on the fundamental values of freedom of expression, media pluralism, respect for human dignity and the rights and interests of public users, in particular minors and other vulnerable people, and then to have moved on to the programme objectives of promoting innovation, market development and the appropriate funding.
- 1.4 Nevertheless, the Committee endorses most of the issues raised in the Green Paper and acknowledges the relevance of the majority of the questions being put forward for public consultation, but notes that the document sometimes lacks a common thread linking the various topics and questions.
- 1.5 The Committee is particularly aware of the new challenges and prospects opening up as a result of convergence, which create significant business opportunities for independent producers, likely to require changes to the industry's current business models.

- 1.6 While it is conscious of the growing economic importance of on-demand audiovisual services in the European audiovisual landscape, the EESC wishes to stress that the traditional range of linear audiovisual services still accounts for a very significant share of people's media usage habits, particularly as a result of technological innovation applied to traditional supply, and this is where we see the foundations of identity and cultural and linguistic diversity, which must be preserved.
- 1.7 Similarly, while recognising the many positive aspects of both the strategy for innovation and technological convergence of audiovisual services with the Internet, the EESC wishes to draw attention to the effects of such developments on traditional forms of media, namely regional and local media, especially in Member States that are home to some of the EU's minority languages. The conditions therefore need to be put in place enabling these traditional media platforms to continue to provide their important public interest service, with a view to supporting linguistic and cultural diversity and safeguarding pluralism of information.
- 1.8 The EESC also feels that media pluralism, the promotion of cultural and linguistic diversity and the preservation of the key role of public service media in the European media ecosystem are all values in the public's interest, which future policies will have to not only uphold but also promote as a feature of the European social model.
- 1.9 In short, the Committee believes that the central aims of the European debate on audiovisual convergence should be to promote European cultures and - hand in hand with this - to safeguard the public interest and fundamental rights, specifically the protection of minors and other vulnerable people.
- 1.10 The EESC therefore calls on the Commission to take account in any future measures, legislative or otherwise, of the recommendations made in so many of the Committee's opinions, and, in particular, of the specific comments set out in this opinion.
- 2. Subject of the Green Paper**
- 2.1 With this Green Paper (COM(2013) 231 final), the Commission is aiming to launch a wide-ranging public debate on the implications of the on-going transformation in media services, fuelled by the increasing convergence of these services with the internet.
- 2.2 The Commission views this changing technological environment as an opportunity to make access to high-quality, diversified European content more widespread; to do so, there needs to be a debate both on how to ensure that the framework conditions are right and on possible public policy responses at European level.
- 2.3 With this strategic objective in mind, the Commission raises two major questions:

- How can the process of convergence in a larger European market be transformed into economic growth and business innovation in Europe?
- What are the implications of convergence for values such as media pluralism, cultural diversity, and the protection of consumers, including that of specific groups such as minors?

2.4 It expressly excludes from its scope those aspects relating to copyright and intellectual property, dealt with in another Green Paper¹, and aspects relating to data protection, also dealt with in recent Commission proposals², despite recognising the importance thereof and their link with the topics being tackled.

2.5 It acknowledges that the public consultation under consideration does not presuppose any specific outcome. However, it recognises that it may pave the way for possible regulatory and other policy responses in the longer term, especially as regards a Better Internet for Kids, media freedom and pluralism, and work on self-regulatory initiatives.

3. **General comments**

3.1 The EESC welcomes the Commission initiative in terms of the importance and topical nature of the subject under discussion. The progressive convergence of linear television services with the internet has been recognised as an inevitable trend on the audiovisual market.

3.2 It does, nevertheless, feel that the instrument used here (Green Paper) is rather late in coming and not ambitious enough, lacking a common thread running through the presentation of the various topics and questions, which could give rise to uncertainty regarding the tack the Commission is adopting in these matters.

3.3 In the wake of its numerous opinions on various aspects of this topic, and as a preliminary to the future design of an integrated audiovisual policy in the context of technological convergence in the EU, the EESC would have preferred if the Commission had opted for an approximation more centred on the fundamental values of freedom of expression, media pluralism, respect for human dignity and the rights and interests of users, particularly those in the more vulnerable sections of the population, and had then turned to the key aspects of innovation, the market and funding, as stated in the EP resolution of 21/05/2013 (P7_TA(2013)0203), rather than the other way around.

3.4 Notwithstanding this, the EESC welcomes most of the subjects raised in the Green Paper and acknowledges the relevance of the great majority of the questions submitted for public consultation.

¹ COM(2011) 427 final, [OJ C 143, 22.5.2012, p. 69-73](#).

² COM(2012) 10 final, COM(2012) 11 final, [OJ C 229, 31.7.2012, p. 90-97](#).

3.5 It is thus aware of the growing economic importance of on-demand audiovisual services in the European audiovisual sector.

3.5.1 It does, however, feel it should underline that the traditional range of linear audiovisual services on offer continues to represent a highly significant portion of European media usage habits.

In fact, in 2012 average television consumption in Europe was 3 hours 55 minutes per day, seven minutes more than the average recorded in 2011.

3.6 Moreover, despite recognising the strategic importance of innovation and the technological convergence of audiovisual services with the internet, the EESC would highlight the possible repercussions thereof on traditional media sectors, namely the written press and radio.

3.6.1 The EESC considers that the Commission will need to play a key role in creating the right conditions for enabling traditional forms of the media to adjust to the digital age and, bearing in mind certain socio-cultural features of the population at whom they are directed, allowing them to continue in non-digital form.

3.6.2 It thus believes that at European level the right conditions should be created for traditional media, particularly regional and local media, to be able to continue providing the important public service they do, in support of linguistic and cultural diversity, as well as efforts to safeguard media pluralism, as part of moves to uphold the European social model.

3.7 The EESC also feels that media pluralism, the promotion of cultural and linguistic diversity, and the preservation of the formative role of the media's public service in the European media ecosystem are all values in the public's interest in general and in the interest of media users in particular, which future policies will have to take into account³.

3.8 In short, the EESC feels that in the European debate on convergence in the audiovisual sector, one of the key aims of and fundamental guidelines for Community policy in this area should be to promote the public interest and safeguard the interests and rights of the public in general and of media users in particular.

4. **Specific comments**

4.1 The questions posed in the public consultation could be divided into six subject areas: access to content and platforms (questions 1 to 3); financing for audiovisual production (questions 4 and 5); interoperability (question 6); infrastructure and spectrum (questions 7 to 9); implications of convergence for regulation (questions 10 to 19); protection of minors (questions 20 to 25); and accessibility (questions 26 and 27).

³ [OJ C 140, 18.5.2000, p. 19-23](#); [OJ C 116, 20.4.2001, p. 30-36](#); and [OJ C 77, 31.3.2009, p. 109-114](#).

4.2 Access to content and platforms

- 4.2.1 The EESC shares the concern that platforms which aggregate content might distort free competition in the provision of audiovisual services and thus impact negatively on users' freedom of choice and their access to a range of high-quality, diverse content.
- 4.2.2 It therefore believes that specific regulatory measures should be envisaged which go beyond competition rules, in such a way as to promote and facilitate access to these platforms nationally and transnationally, along the lines already set out in the Commission's 2009 communication⁴.

4.3 Financing audiovisual production

- 4.3.1 On various occasions the EESC has stated the importance of European cultural industries, including the audiovisual sector, in the Union's development strategy⁵.
- 4.3.2 Bearing in mind changes in the value chain in the audiovisual sector, namely the growing importance of content platforms and aggregators, the EESC considers that the current requirements of the AVMS Directive do not constitute the most appropriate, proportionate and efficient way of promoting the creation, distribution and use of European works.
- 4.3.3 The Committee is therefore of the view that the Commission will need to reassess the framework of obligations incumbent on television operators and expand the scope of these obligations to include new players in the audiovisual value chain against the background of convergence, taking into account the growing impact of these services on the public, embarking on a revision of the directive as soon as possible.

4.4 Interoperability of connected TV

- 4.4.1 The EESC believes that the Commission should guarantee the interoperability of the various services distributed via hybrid platforms, promoting fair competition conditions for all suppliers of content and services, and should ensure that users are able to freely choose from a high-quality, diversified range of services on offer, without discrimination, specifically geographical discrimination.

⁴ [OJ C 257, 27.10.2009, p. 1-14.](#)

⁵ [OJ C 181, 21.6.2012, p. 35-39;](#) and [OJ C 198, 10.7.2013, p. 39-44;](#) [OJ C 77, 31.3.2009, p. 63-68,](#) [OJ C 248, 25.8.2011, p. 144-148,](#) and [OJ C 143, 22.5.2012, p. 69-73.](#)

4.5 **Spectrum policy**

- 4.5.1 The EESC would basically refer to its opinions on the First radio spectrum policy programme/European Broadband: Investing in digitally driven growth⁶, on the Commission Communication on Transforming the digital dividend into social benefits and economic growth⁷, and on the Commission Communication on Promoting the shared use of radio spectrum resources in the internal market⁸.
- 4.5.2 As regards audiovisual service operators' increasing use of hybrid models, combining terrestrial broadcasting with the use of broadband to deliver content, the EESC recommends carrying out studies into the impact of such business models on the audiovisual sector's value chain, paying particular attention to the public's access to content and platforms, as well as access for the operators themselves and for producers of the content. The EESC wishes to highlight the need for infrastructure that guarantees broadband coverage for the whole of Europe, as a key factor for promoting digital equality.

4.6 **Implications for regulation**

- 4.6.1 In the light of the latest technological and market developments, the EESC considers that the Commission should as soon as possible launch a formal public consultation procedure on the review of the AVMSD.
- 4.6.2 In this consultation procedure, the Commission should assess the issue of the scope of the directive, specifically the possibility of including provisions on the transparency and concentration of ownership of audiovisual media services, be they linear or non-linear, and the central issue of defining the concept of editorial responsibility in audiovisual media services. The fundamental principle guiding this review should be that, whatever the audiovisual medium, core values must be respected and guaranteed in an identical manner, irrespective of the specific nature of the medium.
- 4.6.3 The EESC feels that it would likewise be valuable for the Commission to submit a proposal for reviewing the rules applying to commercial communications in audiovisual media services and for placing them on a more systematic basis, since the rules are currently spread out over various legislative instruments, as indicated in previous opinions⁹.

⁶ [OJ C 107, 6.4.2011, p. 53-57.](#)

⁷ [OJ C 44, 11.2.2011, p. 178-181.](#)

⁸ [OJ C 133, 9.5.2013, p. 22-26.](#)

⁹ [OJ C 351, 15.11.2012, p. 6-11.](#)

4.7 Freedom of expression and media pluralism

- 4.7.1 It is important to take proper account of the fact that freedom of the press and media pluralism, as formative elements of active citizenship and participatory democracy, enshrined in the Charter of Fundamental Rights (Article 11), are fundamental to consolidation of the Union integration process.
- 4.7.2 Consequently, and in keeping with concerns expressed by the European Parliament, the EESC considers that the Commission should, as a priority, take appropriate measures in this connection, including the presentation of a legislative initiative on pluralism and concentration of the media, particularly in follow up to the report from the Centre for Media Pluralism and Media Freedom and the report of the High-Level Group on freedom and pluralism of the media.
- 4.7.3 Given the specific features of the European audiovisual market – fragmented, divided by various linguistic and cultural barriers and submerged in a particularly difficult economic climate – the EESC would highlight the importance of *public service media* for safeguarding political pluralism and promoting cultural diversity. The EESC would thus suggest that the Commission encourage widespread debate on the model of governance for the *public service media* in the new context of convergence, taking particular account of the Council of Europe's recent conclusions on this matter.

4.8 Protection of minors and vulnerable sections of the public

- 4.8.1 Bearing in mind the cultural dimension of the media and its impact on society at large, the EESC has made one of its key priorities the protection of minors and other vulnerable sections of the public in relation to both audiovisual media and the digital environment (internet, social media, etc.), in such important aspects as the right to privacy and to image protection and other fundamental rights, recognised inter alia by the European Convention on Human Rights and today also enshrined in the EU's Charter of Fundamental Rights, fortunately now incorporated in the Treaty. While by turning the viewer into a media performer (interactivity), audiovisual convergence opens up enormous opportunities for communication and information, it does expose more vulnerable individuals to illegal activity (cyber-crime).
- 4.8.2 This has therefore been one of the aspects which the EESC has also had the opportunity to highlight in a variety of its more recent opinions, particularly in relation to certain Commission initiatives which, although praiseworthy in themselves, the Committee feels are overly timid; it reiterates the need to guarantee the existence and accessibility of content filters and age-appropriate ratings for the parents or guardians of minors.
- 4.8.3 The EESC therefore firmly believes that when tackling the matter of protection of minors and other vulnerable people as regards the use of the internet in general, and audiovisual media in

particular, steps must be taken to ensure a balance is struck and a fair trade-off found between the fundamental right to freedom of expression and the public interest objective of protecting minors, irrespective of the medium used.

4.8.4 However, it is important to bear in mind that the Commission has itself recognised¹⁰ that on-demand television service operators have not provided an adequate response as regards co- and self-regulation designed to protect minors from harmful content or as regards technical means for providing children with selective access to content on the internet.

4.8.5 This is therefore one of the subjects which the EESC would like to highlight as being amongst the most important when devising EU integrated audiovisual policy in the future, for which it envisages not only legislative measures (regulation, self-regulation and co-regulation), but also education for the media, information, literacy and empowerment, not just for minors, but also for families and schools. It therefore calls on the Commission and Member States to take steps to increase the use of content filters by parents and guardians.

4.9 **Accessibility**

4.9.1 Here, the EESC would mainly refer to its opinions on accessibility¹¹.

4.9.2 These generally highlight both the need to boost accessibility as a fundamental right and, in the specific case of audiovisual services and websites, their classification as genuine services of general interest¹².

4.9.3 Readily applicable legal requirements on the accessibility of audiovisual services are therefore needed to secure access thereto for people with various types of disability and communication handicaps.

Such requirements must be based on more European standardisation, not only of audiovisual content, but also of network distribution, user terminals and interface software. It is vital to ensure that the market in accessibility solutions is genuinely Europe-wide so as to attract new operators to this market and reduce costs.

¹⁰ COM(2011) 556 final.

¹¹ [OJ C 94, 18.4.2002, p. 9-13](#); [OJ C 117, 30.4.2004, p. 49-51](#); [OJ C 110, 9.5.2006, p. 26-32](#); [OJ C 175, 27.7.2007, p. 91-95](#); Accessibility of public sector body websites (not yet published in the Official Journal) and Accessibility as a human right (not yet published in the Official Journal).

¹² Affordability of Services of General Economic Interest (not yet published in the Official Journal).

- 4.10 One final observation: the EESC reiterates the need for a global, integrated approach to the planned digital inclusion objective, where the Union and its Member States guarantee Europeans access to the digital environment, particularly to connected television services, through promoting and supporting initiatives for the continuous learning of digital skills and the development of digital literacy¹³.

Brussels, 18 September 2013.

The President
of the European Economic and Social
Committee

Henri Malosse

¹³ [OJ C 318, 29.10.2011, p. 9-18.](#)