

Brussels, 23 July 2003

OPINION

of the
Committee of the Regions
of
3 July 2003

on the

**Fourth Report from the Commission on the application of Directive 89/553/EEC
"Television Without Frontiers"**

COM(2002) 778 final

THE COMMITTEE OF THE REGIONS,

Having regard to the Fourth Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the *Application of Directive 89/552/EEC "Television Without Frontiers"* (COM(2002) 778 final) of 6 January 2003;

Having regard to the decision of the European Commission of 6 January 2003 to consult it on

this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its Bureau of 6 February 2002 to instruct its Commission for Culture and Education to draw up an Opinion on this subject;

Having regard to the Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, as amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997;

Having regard to the Third report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the application of Directive 89/552/EEC "Television Without Frontiers";

Having regard to the European Parliament resolution on the third report of the Commission to the council, the European Parliament and Economic and Social Committee on the application of Directive 89/552/EEC "Television Without Frontiers";

Having regard to the Fifth Communication from the Commission to the Council and the European Parliament on the application of Articles 4 and 5 of the Directive 89/552/EEC "Television Without Frontiers", as amended by Directive 97/36/EC, for the period 1999-2000, COM(2002) 612 final of 8 November 2002;

Having regard to the Council Recommendation of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity;

Having regard to the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on certain legal aspects relating to cinematographic and other audiovisual works, COM(2001) 534 final of 26 September 2001;

Having regard to its draft opinion (CdR 90/2003 rev. 1) adopted on 12 May 2003 by its Commission for Education and Culture (rapporteur: **Mr José Muñoa Ganuza**, Commissioner for External Relations for the President of the Basque Government (ES/EA));

Whereas:

1) this sector is entering a crucial transitional phase owing to the development of new digital opportunities and this will require considerable investment by operators in technology as well as in human resources retraining and qualification;

2) the shift to digital broadcasting is contributing to the globalisation of the sector and as such is encouraging an increase in local and regional content within the audiovisual and cultural sphere.

adopted the following opinion unanimously at its 50th plenary session, held on 2 and 3 July (meeting of 3 July).

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1. Comments of the Committee of the Regions

New opportunities

The Committee of the Regions

1. **Welcomes** the Commission's proposal to review the Directive and initiate a debate on the possible need to adapt the Community regulatory framework to the recent developments on the markets and to the new technologies.
2. **Feels** that European Directive 89/552/EEC "Television Without frontiers" has made a permanent and decisive contribution over recent years to promoting the audiovisual sector in Europe.
3. **Agrees** that the Commission must continue to facilitate and reinforce the freedom to provide television broadcasting across the internal market on the basis of the essential principles of general interest, including pluralism, human dignity, protection of minors and of consumers, protection of intellectual property and maintaining cultural diversity.
4. **Believes** that the actions and policies of the EU should support a successful changeover to digital television throughout Europe, enabling both citizens and operators to make use of the advantages this will offer.

Local and regional broadcasters

The Committee of the Regions

5. **Notes** that the relative importance of regional and local television broadcasters is growing throughout Europe. These broadcasters have clear social and cultural responsibilities and a duty to provide a service to citizens.
6. **Remarks** that in terms of promoting the European audiovisual industry, local and regional broadcasters are usually more own-production intensive and as

such make a more direct, effective contribution to the sector's development and competitiveness.

7. **Stresses** that an initiative providing easier access to the European Broadcasting Union (EBU) for all public television services, whether regional or national, would help extend broadcasting of events that are of major importance to society.

Public consultations carried out by the Commission

Theme 1: Access to events of major importance for society

The Committee of the Regions

8. **Notes** that guaranteed access to events of major importance to society for the greatest possible number of citizens is a fundamental aim and implies the need for free circulation of information as a precursor to the right to access to information and freedom of speech.

Theme 2: Promotion of cultural diversity and of competitiveness of the European audiovisual programme industry

The Committee of the Regions

9. **Points out** that it will be necessary for all future legislative measures to promote the European audiovisual industry to take account of the responsibilities of the Member States as well as to comply with Article 151(4) of the Treaty establishing the European Community, which outlines the need for all Community policies and action to respect and promote the cultural diversity of the Community.
10. **Considers** that the Directive has met the specific targets set in terms of promoting European and independent productions. This can be seen through the trend towards increased broadcasting of European productions in general and independent productions in particular.
11. **Considers** that the option of supporting regional and local television services should be encouraged or permitted so as to ensure cultural and regional diversity in the future of digital TV, given the investment required in association with the transition to digital production and distribution and that local and regional TV broadcasting is more own-production intensive.
12. **Fully agrees** that the Community should draw up a comprehensive audiovisual package in conjunction with the new Directive comprising support measures for the European audiovisual sector, such as the MEDIA Plus programme and the i2i initiative.

Theme 3: Protection of general interests in television advertising, sponsorship, teleshopping and self-promotion

The Committee of the Regions

13. **Judges** there to be discrepancies between the Member States, and even between different television broadcasters in individual countries, concerning fulfilment of the advertising quotas.
14. **Welcomes** the Commission's intention to retain rules on advertising, e.g. the clear separation between editorial content and advertising as well as providing control and monitoring of these rules.
15. **Shares** the concern of the Commission to bring forward regulatory measures applicable to the new possibilities for television advertising, i.e. virtual and interactive, offered by the new technologies.
16. **Firmly believes** that commercial financing is a prerequisite to the further development of the European audiovisual industry and that, as such, the conditions surrounding such financing must be the same in all of the Member States.
17. **Supports** the Commission's intention to draw up a framework Directive for fair advertising practices as well as codes of conduct applicable across Europe, or alternatively a legal instrument to promote cooperation amongst those authorities responsible for enforcing the applicable regulations.

Theme 4: Protection of minors and public order – The right to reply

The Committee of the Regions

18. **Backs** the procedure established by the Directive for the protection of minors, which facilitates combining a series of specific prohibition criteria with freedom of reception.
19. **Fully supports** the aim of protecting minors from programmes that could harm their physical, mental or moral development, moreover guaranteeing that broadcasts do not incite to hatred for reasons of race, gender, religion or nationality and also fully supports the exceptional possibility granted to the receiving Member State in cases in which a television broadcast is made under the jurisdiction of another country.
20. **Welcomes** the intention to study the procedures used to classify content in the Member States and across the different media and distribution channels with the aim of reducing the confusion that can arise through the use of diverse classification practices.

21. **Considers it reasonable** to extend the right of reply to other broadcasting media and not to restrict it to television alone.

Theme 5: Application (related aspects)

The Committee of the Regions

22. **Believes** it to be right for the Member State from which television broadcasting emanates to bear **responsibility and have competence**, as clearly established in the Directive in its amended form of 1997, so as to eliminate the possibility of more than one Member State having competence.

Theme 6: Issues not covered by the Directive: access to "short extracts"

The Committee of the Regions

23. **Welcomes** the introduction of the right to information ("right to short extracts") in the new Directive which takes particular account of the new multi-media, multi-channel possibilities offered by digital technology as well as the need to facilitate access to this right to viewers of regional and local television broadcasters, above all those using minority and/or regional languages.
24. **Recommends** the continued flexibility of rules on the transmission of major events on free TV respecting the specificities of different countries. Consideration should be given to drawing up a European list of major events.
25. **Advocates** better coordination of the forthcoming "Television Without frontiers" Directive with Directive 93/83/EEC, entitled "Cable and Satellite", to promote better coordination of copyright arrangements.
26. Would **recommend** reshaping the "Television Without Frontiers" Directive into a coherent European regulatory framework for the broadcasting of audiovisual services based on a graduated approach to regulation of each individual service, and that its technological neutrality should be maintained.

2. Recommendations of the Committee of the Regions

The Committee of the Regions

1. **Asks** the Commission to continue to maintain the objectives introduced by the Directive.
2. **Urges** the Member States to take account of their regional and minority languages when broadcasting the events of major importance to society

outlined under Article 3a of the Directive, and in particular sporting events, and, insofar as possible, to broadcast such events in those languages for the regions concerned.

3. **Recommends** maintaining the quota system outlined in the Directive concerning the promotion of both European and independent productions.
4. **Suggests that the forthcoming Directive** should promote regional and local television broadcasts, including those with content in regional and/or minority languages, as these help boost the European audiovisual industry as a whole.
5. **Proposes** shifting the focus of the measures and instruments used to promote European productions more particularly onto productions in regional and/or minority languages with the aim of fostering the cultural diversity of Europe.
6. **Suggests** reinforcing the instrument of self-regulation in the new television directive. However, this must go hand in hand with state supervision.
7. **Recommends** continuing to look for solutions for decreasing the advertising presence so as to protect the rights of consumers and television viewers.
8. **Endorses** the work done by the Commission to protect minors and agrees that the content classification systems of the Member States should be studied.
9. **Advocates** governing the right to information (right to "short extracts") by means of the Directive, as well as better coordination with Directive 93/83 "Cable and Satellite".
10. **Supports** the audiovisual policy approach based on more intensive promotion of the social, cultural and humanitarian values of the Union so as to strengthen and spread the concept of a European identity both within and beyond the European borders.
11. **Suggests** granting specific, effective support to regional and local television operators who broadcast content in minority languages via programmes and initiatives such as the MEDIA Plus programme or the i2i initiative, which promote cross-border local and regional cooperation agreements in this area.

Brussels, 3 July 2003.

The President

of the

Committee of the Regions

The Secretary-General

of the

Committee of the Regions

Albert Bore

Vincenzo Falcone

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