European Commission: Fourth Report on Application of TWF Directive

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At the beginning of 2003, the European Commission published its Fourth Report on the Application of the "Television without Frontiers" Directive. The main part of the Report provides a comprehensive mise au point of the implementation of the Directive and of the central principles enshrined therein. The Annex to the Report sets out the details of the projected work for the review of the Directive, along with the time-frame within which this work is to be carried out.

The Report affirms a healthy diagnosis of the development of the television market in Europe for the period 2000-2002. The implementation of the Directive in Member States is examined before the focus becomes thematically specific, with a consideration of the practical application of the Directive's provisions concerning jurisdiction, events of major importance for society, the promotion and distribution of television programmes, advertising rules and the protection of minors and public order. Treatment is also given to issues such as coordination between national authorities and the Commission; audiovisual law in the context of EU-enlargement and co-operation with the Council of Europe.

According to the work programme for the review of the Directive, the review process will involve an examination of "the specific instruments of European audiovisual policy" in the context of other relevant Community policies and regulatory measures (such as the Directive on the harmonisation of certain aspects of copyright and related rights in the information society and the Directive on electronic commerce). One of the programme's main vectors will be a series of public consultations, which will be inclusive of parties from EU candidate countries; these consultative exercises will centre on whether recent technological and market developments in the audiovisual sector should influence existing regulations. The work programme is expected to culminate in the adoption of a Communication on the results of the public consultations and possible proposals at the end of 2003/beginning of 2004.

For each of the principal themes identified in the Report, the Commission "will examine whether the provisions of the Directive have fully met the target objectives and whether it is necessary to take measures at Community level. If so, it will examine whether it would be preferable to review the provisions currently contained in the Directive, to amend them or to draft other measures for

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achieving the objectives of the Directive". The work programme countenances the possibility of achieving certain of the relevant aims of the Directive through a variety of regulatory models: traditional regulation, (complementary) co- or even self-regulation.

In substantive terms, the Commission is not seeking to extend the provisions on access to events of major importance to society, but to improve their implementation. The Commission's thinking on the application of Chapter III of the Directive (Promotion of distribution and production of television programmes) will be guided, inter alia, by commissioned studies and consultations. The legal implications of new advertising techniques will be scrutinised, as will the impact of increased technological sophistication in the context of the protection of minors and public order, paying particular attention to the right of derogation from the country-of-origin principle in this connection. The Commission will assess the provisions on the right of reply in the broadcast media as well as a new issue that currently falls outside the scope of the Directive, i.e. access to short extracts of events subject to exclusive rights. The Contact Committee will be heavily involved in the implementation of this work programme and its some of its own powers may even ultimately be strengthened as part of the review process.

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, 6 January 2003

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