European Parliament: Resolution on the Television Without Frontiers Directive

IRIS 2003-9:1/7

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On 4 September 2003, the European Parliament adopted a Resolution on the "Television without Frontiers" Directive (Directive 89/552/EEC as amended by Directive 97/36/EC), following the Commission's Fourth Report on the application of the Directive (see IRIS 2003-2: 5), in which the current process of review of the Directive was launched.

In the Resolution, the European Parliament restates its belief that a complete review of the Directive is needed in order to take account of technological developments and changes in the structure of the audio-visual market (although the current approach of the Directive of setting minimum rules should be maintained). In addition, the Parliament calls for Community law in the audio-visual field to be consolidated in a "Content Framework Package", bringing together the Television without Frontiers Directive, the e-Commerce Directive (Directive 2000/31/EC see IRIS 2000-5: 3) and the Directive on copyright related to satellite broadcasting and cable retransmission (Directive 93/83/EEC see IRIS 2002-9: 6). This package should be based on the principles underlying the current Television without Frontiers Directive and would provide "an overarching framework" for the audio-visual sector.

More specifically, as regards advertising and consumer protection, the Parliament notes that the regulation of the application of new technologies requires a more flexible and less prescriptive approach towards advertising than that adopted under the current Directive. The Resolution thus welcomes the intention of the Commission to investigate the possibility of structuring certain quantitative restrictions on advertising in a more flexible way (taking user choice and control options into account). Existing qualitative advertising rules however should be retained.

As regards access-related issues, the Resolution addresses, inter alia, the provisions relating to access to events of major importance for society (Article 3a). In this regard, the Parliament, inter alia, invites the Commission to consider whether legal certainty would be improved by the introduction of a brief European minimum list of events, which could be complemented by national lists. The Commission is also asked to consider whether measures should be introduced at Community level to guarantee access to short extracts of events subject to

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exclusive rights. Furthermore, the Parliament reiterates its call on the Commission to address the problem of improving access to the broadcast media for people with disabilities.

The Resolution also addresses the provisions in the Directive relating to the broadcasting of European works and works by independent producers. It calls on the Commission, inter alia, to establish a clearer definition of the terms "European work" and "independent producer" in order to ensure the proper application of Articles 4 and 5 of the Directive. Also, the Commission should clearly establish the categories of specialist channels which would "merit a reduction or elimination of requirements for compliance" with these provisions (on the grounds that it would not be "practicable" for them to comply).

Particular emphasis is placed on the need to preserve pluralism in broadcasting and the concern is expressed that this may be threatened by growing concentration in the media sector. The Parliament had already called on the Commission to take action in this respect in a Resolution of 20 November 2002 (see supra). It now advocates that any future Directive include rules on ownership of television media that will ensure pluralism in the field of information and culture. In addition, it calls on the Commission to draw up an updated Green Paper on this issue by the beginning of 2004 in order to lay the foundations for a Directive in this field (as advocated in the resolution of 20 November 2002).

In general, the Parliament underlines that regulation of content should be carried out as closely as possible to the activities being regulated and stresses the need for flexibility in the Directive. The Commission is asked to publish a full picture of the self-regulatory measures taken to date and to support the establishment of a working group of national regulators for the exchange of best practice in all forms of regulation.

European Parliament resolution on Television without Frontiers, adopted on 4 September 2004

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