[PL] National Broadcasting Council’s Position on Issues Papers

IRIS 2006-1:1/43

Małgorzata Pęk
National Broadcasting Council of Poland

On 1 September 2005 the National Broadcasting Council (NBC) adopted a position on the Issues Papers presented by the European Commission, in the framework of the public consultation on the revision of the "Television without Frontiers" Directive. The adopted documents have been sent to the Commission.

The NBC supported the basic premise that the new Directive should include regulations that will be technologically neutral and will take into account media convergence, and that a complex and integrated approach to the Information Society and to audiovisual media services was necessary. It also supported - in principle - the adoption of a two-tier regulation - one for all audiovisual services and the other only for linear audiovisual services.

It was pointed out that it was important to precisely identify the material competence of the directive and to define its *ratio legis* , i.e., to substantiate the reasons why some forms of the audiovisual content distribution should be covered by regulation. It is therefore necessary to have legal certainty and to lay down the rules that will be comprehensible and convincing to the public and broadcasters/providers of audiovisual content. It was observed that the material competence of the new directive has to be defined in a more precise way.

Referring to the territorial competence, the NBC offered in its position document specific proposals aimed at achieving more clear and transparent rules. It also addressed the issue of delocalization, and indicated detailed proposals in this regard.

Referring to the issue of the right of information and the right of short reporting, it was found advisable to lay down at the European level minimal rules enabling the presentation of short reports in information programs. However, it was stressed that public’s right of information should be balanced against the intellectual property rights as well as against other rights of broadcasters and event organizers. It was observed that the basic regulation safeguarding the societies` right of information in the form of the short reports might be devised in a form that would permit the existence of specific provisions laid down in self-regulatory codes which would properly safeguard the public’s right of information. Such an approach would be possibly owing to the „where necessary” formula.

© European Audiovisual Observatory (Council of Europe) 2026

Referring to the issue of cultural diversity and the promotion of European audiovisual production, it was found that that Arts. 4 and 5 of the Directive met the envisaged cultural goals and did not need to be amended. It was suggested that it was worth considering if it is possible to develop a more transparent and simpler definition of "European work" referred to in Art. 6 of the Directive. In the NBC position paper also other issues were developed, including the monitoring of the application of the requirements laid down in Arts. 4 and 5, and the notion of the independent producer. NBC supported the proposal to adopt a more precise definition of "independent producer" and to enhance the significance of the rule of retention of some secondary rights to their productions.

Regulation of commercial communications in audiovisual media services is quite important in the directive. Referring to this issue NBC found important that the Community's new audiovisual regulation defining the use of commercial communication in broadly understood audiovisual media would take into account the current technological development, popularization of new types of audiovisual media and also the development of new forms of advertising and sponsorship. It was pointed out that a clear-cut and precise legal framework laying down the rules of advertising in a wide range of audiovisual services, both linear and non-linear, was an indispensable element needed to make the development of the European audiovisual market more dynamic. Interpretation problems that arise in connection with the currently Directive as to the use of new forms of advertising should be finally clarified. It was found necessary to create a comprehensible legal framework facilitating the use of new forms of advertising. On the other hand, it is necessary to take every effort to ensure the protection of the viewers´ interests in the context of new forms of advertising and new types of audiovisual services, both linear and nonlinear. It was indicated, that the new directive should be drafted in the most clear and condensate form, still the regulation by the Community law of the use of new forms of advertising will require detailed and comprehensive solutions. NBC's position paper develops further the concept of audio-visual commercial communication, proposed definitions, role and scope of qualitative rules, as well as specific questions referring to the qualitative rules.

Referring to the issue of the protection of minors, the human dignity and the right of reply NBC agreed that the protection of minors from particularly harmful contents in the area of audiovisual services is a particularly important task. It is observed that the legal framework of that protection as laid down in the directive needs to be viewed as significant; rules in it included should also be reflected in an appropriate form in the new directive in the context of broadly understood audiovisual services. A similar approach should be also taken in reference to public order rules envisaged in the current Directive.

© European Audiovisual Observatory (Council of Europe) 2026

Stanowisko KRRiT w sprawie dokumentów problemowych przedstawionych przez Komisję Europejską w ramach procesu konsultacji dotyczących zmiany dyrektywy „O telewizji bez granic", przyjęte przez KRRiT na posiedzeniu w dniu 1 września 2005 r.

Standpoint adopted by the National Broadcasting Council on 1 September 2005, concerning Issues Papers presented by the European Commission in the framework of public consultation on the revision of the "Television without Frontiers" Directive

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026