European Commission: Sixth Report on Application of TWF Directive

IRIS 2008-1:1/4

Stefan Kulk
Institute for Information Law (IViR), University of Amsterdam

The European Commission adopted its Sixth Report on the application of the "Television without Frontiers" (TWF) Directive on 24 October 2007. The Commission is required to adopt such bi-annual reports under Article 26, TWF Directive. The period covered by the Sixth Report is 2005 and 2006. The main objective of this report is to describe and analyse the salient facts relating to the application of the Directive during this period.

The Report commences with an outline of recent developments in the television market in Europe. This explanation of developments is followed by a discussion of the Foreign Satellite Proscription Order concerning Extasi TV (see IRIS 2005-3: 12), in which the United Kingdom made use of the provision in Article 2a(2) TWF Directive to derogate from the country of origin principle in Article 2a(1) TWF Directive. On 11 July 2005, the Commission decided that the UK measures were compatible with Community law and in accordance with Article 2a(2) TWF Directive (see C(2005) 2335 final). Similar problems arose for the services RTL-TVi, Club RTL and Plug TV (see IRIS 2006-3: 10).

Furthermore, the Report contains an update on events of major importance for society (art. 3a of the TWF Directive) and a description of the Infront case (see IRIS 2006-2: 5). Following this judgment, the Commission brought all its verifications of Member State measures notified before the Infront judgment into line with the findings of the Court in the Infront case and adopted its decisions to be published, together with the national measures, in the Official Journal, in accordance with Article 3a(2) of the Directive. This part of the Report is followed by a section containing updates on the promotion of distribution and production of European works (art. 4 and 5 of the TWF Directive). The information on the promotion of distribution and production of European works is mainly gleaned from the Commission's Seventh Communication on the application of Articles 4 and 5 (C(2006) 459 final) and contains generally satisfactory results.

An update on the Commission's monitoring of the Directive's rules on advertising is also provided. The Commission notices that during the reference period the Commission pursued various infringement procedures particularly in connection with breaches of the advertising rules (articles 10-20 of the TWF Directive). Special attention is paid to the Kingdom of Belgium, in particular Flanders: "the

© European Audiovisual Observatory (Council of Europe) 2026

Commission had in-depth discussions with the Belgian authorities". But in view of the improvements achieved by the Belgian regulatory bodies in their monitoring of broadcasters' activities under their responsibility (e.g. a new Flemish media authority, see IRIS 2006-4: 8), the Commission decided to close the case. From the perspective of the protection of minors and public order (Articles 2a, 22 and 22a TWF Directive) the Report notes that the European Parliament and the Council adopted a Recommendation on the Protection of Minors and Human Dignity.

The Report also notes that a legislative proposal for a modernised audiovisual services directive was adopted in December 2005. It describes the progress up until the political agreement on a Common Position that was adopted on 24 May 2007. Meanwhile, the Directive has been adopted by the Council of the EU and the European Parliament (see IRIS 2008-1: 5). After a discussion of the international aspects of the Directive, for instance regarding the ratification of the Convention on the protection and promotion of the diversity of cultural expressions by the Community (see IRIS 2005-10: 2 and IRIS 2007-2: 2) and the cooperation with the Council of Europe, the Report comes to a conclusion. The Directive continues to function effectively and the Commission continues to verify the effective implementation of the Directive and takes action where necessary to ensure this. At the same time, technological and market developments confirm the need to modernise the EC legal framework, in other words: the adoption of the Audiovisual Media Services Directive.

Sixth Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 89/552/EEC "Television without Frontiers", COM(2007) 452 final, 24 October 2007, available at:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0452:FIN:EN:HTML

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026