# [PL] Works on Implementation of the Audiovisual Media Services Directive

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On 24 July 2009 the Ministry of Culture and National Heritage published draft guidelines for the implementation of the AVMSD ("guidelines") and opened public consultations. The consultations took place until 24 August 2009. After analysing the outcome of the consultations the guidelines will be sent for intergovernmental consultations leading to the formal adoption of the guidelines.

The guidelines envisage that the AVMSD will be transposed into national law by amending the Broadcasting Act. The regulatory authority responsible for the audiovisual media services will be the National Broadcasting Council (NBC), which is currently responsible only for "traditional" radio and TV broadcasting.

The guidelines refer to many issues, such as the authorisation or registration procedures (licensing or registration of services previously excluded from such obligations). One complex issue is the regulatory approach to a new form of TV broadcasting: webcasting. It is proposed that while other forms of TV broadcasting would remain licensed, internet TV would be subject only to registration. Internet radio would not be covered by the registration obligation. However, audiovisual media on-demand services would be subject to registration. The proposal aims to provide a transparent legal framework that would enable the swift and efficient implementation of new legal rules provided by the AVMSD that would also be easy to apply.

The guidelines also provide for self- and co-regulation. Those have little tradition in the Polish legal system but the guidelines provide a role for them in the fields of:

- making audiovisual media services accessible to people with disabilities;

- limiting inappropriate commercial communication on "unhealthy food" to minors;

- protection of minors in the on-demand audiovisual media services;

- promotion of European works in the on-demand audiovisual media services.

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In cases where the AVMSD creates “soft obligations” for the Member States, if alternative forms of regulation are not used by stakeholders, the guidelines determine that the NBC shall establish regulations in the above-mentioned fields.

The guidelines broadly take similar regulatory approach as the AVMSD, while in only a few cases it was proposed to adopt stricter rules, e.g., regarding product placement. It is proposed to allow PP generally as provided by the AVMSD, but the rules will be stricter than the Directive regarding the list of banned services and products. The guidelines propose that this list of banned products and services for product placement should be the same as it is currently for advertisements, which includes for example:

- tobacco products and accessories or products imitating these and related symbols;

- alcoholic beverages;

- medical services and medicinal products available only on prescription.

Moreover, safeguards to protect consumers are envisaged, including an obligation to inform viewers clearly about the existence of product placement in a programme. It was expected that the guidelines would be sent for intergovernmental consultations in October 2009.

***Założenia nowelizacji ustawy o radiofonii i telewizji w związku z implementacją dyrektywy o audiowizualnych usługach medialnych***

http://bip.mkidn.gov.pl/bip/document/?docId=1265

*Draft guidelines for the implementation of the AVMSD*

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