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Subject: Proposal for a Directive of the European Parliament and of the Council
amending Directive 2010/13/EU on the coordination of certain provisions
laid down by law, regulation or administrative action in Member States
concerning the provision of **audiovisual media services** in view of
changing market realities
- Revised Presidency compromise text

In preparation for the meeting of the Audiovisual Working Party on 23 March 2017, delegations will find attached a revised Presidency compromise text.

Articles unchanged by the Commission amending proposal do not appear in this text.

Articles and their provisions are arranged according to the following topics:

- I. audiovisual commercial communications (p. 3-9)
- II. video sharing platform services (p. 10-16)
- III. jurisdiction and cooperation procedures (p. 17-25)
- IV. quota and financial contributions (p. 26-27)
- V. co-/self-regulation and Union codes of conduct (p. 28-31)
- VI. definitions (p. 32-36)
- VII. hate speech and terrorism (p. 36-37)
- VIII. accessibility (p. 37)
- IX. protection of minors (p. 38)
- X. supervision and monitoring (p. 39-42)

The following formatting is used in the attached document:

- normal font reproduces the text of the 2010 AVMS Directive¹,
- **bold** indicates the amending provisions from the Commission proposal and text modified in the previous versions, which the Presidency has decided to keep,
- **bold underlined** and ~~**bold underlined strikethrough**~~ indicate new proposals by the Presidency, in comparison to documents 5973/17, 6312/17 and 6597/17.

¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive), OJ L 95, 15.4.2010, p.1.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
AMENDING DIRECTIVE 2010/13/EU**

**on the coordination of certain provisions laid down by law, regulation or administrative
action in Member States concerning the provision of audiovisual media services in view of
changing market realities**

I. Provisions related to AUDIOVISUAL COMMERCIAL COMMUNICATIONS

Article 9

1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements:
 - (a) audiovisual commercial communications shall be readily recognisable as such. Surreptitious audiovisual commercial communication shall be prohibited;
 - (b) audiovisual commercial communications shall not use subliminal techniques;
 - (c) audiovisual commercial communications shall not:
 - (i) prejudice respect for human dignity;
 - (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
 - (iii) encourage behaviour prejudicial to health or safety;
 - (iv) encourage behaviour grossly prejudicial to the protection of the environment;

- (d) all forms of audiovisual commercial communications for cigarettes and other tobacco products shall be prohibited;
- (e) audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages;
- (f) audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls shall be prohibited;
- (g) audiovisual commercial communications shall not cause physical or moral detriment to minors. Therefore they shall not directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations.

[...]²

Article 10

1. Audiovisual media services or programmes that are sponsored shall meet the following requirements:
 - (a) their content and, in the case of television broadcasting, their scheduling shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;

² Paragraphs 2, 3 and 4 are addressed under the "co-/self-regulation" theme (V.).

(b) **they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services³;**

(c) viewers shall be clearly informed of the existence of a sponsorship agreement.

Sponsored programmes shall be clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or service(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or at the end of the programmes.

2. Audiovisual media services or programmes shall not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.
3. The sponsorship of audiovisual media services or programmes by undertakings whose activities include the manufacture or sale of medicinal products and medical treatment may promote the name or the image of the undertaking, but shall not promote specific medicinal products or medical treatments available only on prescription in the Member State within whose jurisdiction the media service provider falls.
4. News and current affairs programmes shall not be sponsored. Member States may choose to prohibit the showing of a sponsorship logo during children's programmes, documentaries and religious programmes.

³ ***Recital 14 to be modified as follows:*** "Sponsorship represents an important means of financing audiovisual media services or programmes while promoting a legal or physical person's name, trade mark, image, activities or products. ~~As such, for sponsorship to constitute a valuable form of advertising technique for advertisers and audiovisual media service providers, sponsorship announcements can contain promotional references to the goods or services of the sponsor, while not directly encouraging the purchase of the goods and services.~~ Sponsorship announcements should continue to clearly inform the viewers of the existence of a sponsorship agreement. The content of sponsored programmes should not be influenced in such a way as to affect the audiovisual media service provider's editorial independence."

Article 11

1. Paragraphs 2, 3 and 4 shall apply only to programmes produced after 19 December 2009.⁴
2. Product placement shall be allowed in all audiovisual media services, except in news and current affairs programmes, consumer affairs programmes, religious programmes, and children's programmes ~~and programmes with a significant children's audience~~⁵.
3. Programmes that contain product placement shall meet the following requirements:
 - (a) their content and ~~its~~ organisation in a schedule in the case of television broadcasting or in a catalogue in the case of on-demand audiovisual service, shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;
 - (b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
 - (ca) they shall not give undue prominence to the product in question;

⁴ Recital 91 of the current 2010 AVMS directive will continue to apply, including the provision of certain goods and services free of charge.

⁵ ***Recital 16 will be amended as follows:*** "Product placement should not be **allowed** in news and current affairs programmes, consumer affairs programmes, religious programmes and **children's** programmes ~~with a significant children's audience~~. In particular, evidence shows that product placement and embedded advertisements can affect children's behaviour as children are often not able to recognise the commercial content. There is thus a need to continue to prohibit product placement in **children's** programmes ~~and also to extend this prohibition to programmes with a significant children's audience~~. **These are programmes which are viewed by a share of children that is proportionately higher than the share of children in general audience**. Consumer affairs programmes are programmes offering advice to viewers, or including reviews on the purchase of products and services. Allowing product placement in such programmes would blur the distinction between advertising and editorial content for viewers who may expect a genuine and honest review of products or services in such programmes."

- (c) viewers shall be clearly informed of the existence of product placement by an appropriate identification. ~~Programmes containing product placement shall be appropriately identified~~ at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the viewer.

Member States may waive the requirements set out in point (c) except for programmes produced or commissioned by a the media service provider or by a company affiliated to the that media service provider.

4. In any event programmes shall not contain product placement of:

- (a) cigarettes and other tobacco products or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products.
- (b) specific medicinal products or medical treatments available only on prescription in the Member State under whose jurisdiction the media service provider falls.

Article 20

1. Member States shall ensure, where television advertising or teleshopping is inserted during programmes, that the integrity of the programmes, taking into account natural breaks in and the duration and the nature of the programme concerned, and the rights of the right holders are not prejudiced.
2. **The transmission of films made for television (excluding series, serials and documentaries), cinematographic works and news programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least 30 minutes.** The transmission of children's programmes may be interrupted by television advertising and/or teleshopping once for each scheduled period of at least 30 minutes, provided that the scheduled duration of the programme is greater than 30 minutes. No television advertising or teleshopping shall be inserted during religious services.

Article 22

- 1a.** Television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:
- (a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
 - (b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;
 - (c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
 - (d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
 - (e) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
 - (f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.
- 1b.** Without prejudice to point (e) of Article 9(1), audiovisual commercial communications for alcoholic beverages in on-demand audiovisual media services, with the exception of sponsorship and product placement, shall also comply with the criteria in paragraph 1a.

Article 23

1. In the period between 7:00 and 19:00, the proportion of television advertising spots and teleshopping spots within a given clock hour shall not exceed 20 %. The proportion of television advertising spots and teleshopping spots within the period between 19:00 and ~~24:00~~ 00:00 shall not exceed 20 % of ~~this~~ that period.⁶
2. Paragraph 1 shall not apply to:
 - (a) announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes or with programmes from other entities belonging to the same media group;
 - (b) sponsorship announcements;
 - (c) product placements;
 - (ca) neutral frames between editorial content and television advertising or teleshopping spots, and between individual spots.⁷

⁶ *Recital 19 to be modified as follows: ~~While this Directive does not increase the overall amount of admissible advertising time during the period from 7:00 to 23:00, It is important for broadcasters to have more flexibility and to be able to decide when to place advertising in order to maximise advertisers' demand and viewers' flow. Thus, for the period from 19:00 to 00:00, the limit of 20 % of advertising should be calculated on the basis of that period. The limit of 20 % of advertising per clock hour should be kept within the period of 7:00 to 19:00. For the remaining period there should be no limitations for the advertising scheduling. The hourly limit should thus be abolished while a daily limit of 20% of advertising within the period from 7:00 to 23:00 should be introduced.~~*

⁷ *A new recital to be added: "Neutral frames separate editorial content from television advertising or teleshopping spots, as well as separate individual spots. They allow the viewer to clearly distinguish when one type of audiovisual content ends and the other starts. It is necessary to clarify that neutral frames are excluded from the quantitative limit set out for television advertising. This is in order to ensure that the time used in neutral frames does not impact on the time used for advertising and that revenues generated from the advertising are not negatively affected."*

II. Provisions related to VIDEO SHARING PLATFORM SERVICES

Article 1

1. For the purposes of this Directive, the following definitions shall apply:

[...] ⁸

(aa) **'video-sharing platform service'** means a service, as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, which meets the following requirements:

- (i) **the service consists of the storage or livestreaming of programmes or of user generated videos, for which the video-sharing platform provider does not have editorial responsibility;**
- (ii) **the organisation of the stored or livestreamed programmes or user generated videos is determined by the provider of the service including by automatic means or algorithms, in particular by displaying, tagging and sequencing;**

⁸ Other definitions can be found in the "definitions" theme (VI).

- (iii) the principal purpose of the service, a dissociable section of that service or a significant proportion of the service is devoted to providing programmes or user-generated videos to the general public, in order to inform, entertain or educate;⁹ and
- (iv) the service is made available by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC;

[...]

(da) 'video-sharing platform provider' means the natural or legal person who provides a video-sharing platform service;

[...]

⁹ *A new recital to be inserted: "3a. Video sharing platform services provide audiovisual content which is increasingly accessed by the general public and in particular by young people. These services compete for the same audiences and revenues as the audiovisual media services. Furthermore they also have a considerable impact on shaping and influencing opinions of the general public. This also applies to social media services that have become an important medium to share information, entertain and educate, including by providing access to programmes and user-generated videos. Such a provision of programmes and user-generated videos could be considered to form a significant proportion of ~~that~~ the social media service, if the proportion of audiovisual content is significant to the main activity or other activities of ~~the social media that~~ service. Criteria to assess that the audiovisual content is not just a mere by-product of the activities of a social media service, but that it is a significant proportion of its activities, could include for instance whether the service has put in place shared revenue models for the distribution and placement of audiovisual commercial communications in and around the audiovisual content or whether the service has decided to use algorithms to decide which audiovisual content is run and how prominently it is displayed. Therefore, social media services should be covered by this Directive insofar as their services meet the criteria defining a video sharing platform service."*

CHAPTER IXa
PROVISION APPLICABLE TO VIDEO-SHARING PLATFORM SERVICES

Article 28a

1. Without prejudice to Articles 14 and 15 of Directive 2000/31/EC, Member States shall ensure that video-sharing platform providers take appropriate measures to:
 - (a) protect minors from content programmes, user generated videos and audiovisual commercial communications which may impair their physical, mental or moral development;
 - (b) protect the general public from content programmes, user generated videos and audiovisual commercial communications containing incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;
 - (ba) protect the general public from content programmes, user generated videos and audiovisual commercial communications containing incitement to terrorism commit a terrorist offence as defined in Article 3(1) of Directive 2017/XX/EU on combatting terrorism;

- 1a. Member States shall ensure that video-sharing platform providers comply with the requirements set out in Article 9(1) with respect to audiovisual commercial communications that are marketed, sold and arranged by those video-sharing platform providers. Taking into account the limited control exercised by video sharing platforms over audiovisual commercial communication that are not marketed, sold and arranged by those video sharing platform providers, Member States shall ensure that the video sharing platform providers take appropriate measures to comply with the requirements set out in Article 9(1).
2. For the purposes of paragraphs 1 and 1a, an appropriate measure shall be determined in light of the nature of the content in question, the harm it may cause, the characteristics of the category of persons to be protected as well as the rights and legitimate interests at stake, including those of the video-sharing platform providers and the users having created and/or uploaded the content as well as the public interest.

Those measures ~~may~~ shall include, as appropriate:

- (a) putting into effect, in the terms and conditions of the video-sharing platform providers, the ~~concepts of incitement~~ requirements not to incite violence or hatred as referred to in point (b) of paragraph 1 and not to incite the committing of terrorist offences as referred to in point (ba) of paragraph 1 and as well as the concept of content which may impair the physical, mental or moral development of minors, in accordance with Articles 6 and 12(1) respectively;
- (aa) putting into effect, in the terms and conditions of the video-sharing platform providers, the requirements set out in Article 9(1) for audiovisual commercial communications that are not marketed, sold or arranged by the video-sharing platform providers;
- (b) establishing and operating mechanisms for users of video-sharing platforms to report or flag to the video-sharing platform provider concerned the content referred to in paragraph 1 stored or livestreamed on its platform;

- (c) **establishing and operating age verification systems for users of video-sharing platforms with respect to content which may impair the physical, mental or moral development of minors;**
- (d) **establishing and operating systems allowing users of video-sharing platforms to rate the content referred to in paragraph 1;**
- (e) **providing for parental control systems with respect to content which may impair the physical, mental or moral development of minors;**
- (f) **establishing and operating systems through which providers of video-sharing platforms explain to users of video-sharing platforms what effect has been given to the reporting and flagging referred to in point (b);**
- (fa) **providing for effective media literacy measures and tools and raising users' awareness of these measures and tools.**

[...] ¹⁰

4. **Member States shall establish the necessary mechanisms to assess the appropriateness of the measures, referred to in paragraph 2, taken by video-sharing platform providers. Member States shall entrust to the national regulatory authorities with the assessment of those measures.**
5. **Member States may impose on video-sharing platform providers measures that are more detailed or stricter than the measures referred to in paragraph 2. When adopting such measures, they shall respect the conditions set by applicable Union law, such as, where appropriate, those set in Articles 14 and 15 of Directive 2000/31/EC or Article 25 of Directive 2011/92/EU.**

¹⁰ Paragraph 3, 7 and 8 are addressed under the "co-/self-regulation" theme (V.).

6. Member States shall ensure that complaint and redress mechanisms are available for the settlement of disputes between users and video-sharing platform providers relating to the application of paragraphs 1 and 2.
- 6a. In addition to the measures referred to in paragraph 2, Member States shall encourage policies and schemes to develop media literacy skills.

Article 28b

1. Each Member States shall ensure that a video-sharing platform providers which are is not established on their its territory, but which have either a parent company or a subsidiary that is established on their territory or which are part of a group and another entity of that group is established on their territory, are is deemed to have been be established on their its territory for the purposes of Article 3(1) of Directive 2000/31/EEC if that video-sharing platform provider:
 - a) has a parent company or a subsidiary that is established on that Member State's territory; or
 - b) is part of a group and another undertaking of that group is established on the territory of that Member State.

For the purpose of this article:

- a) "parent undertaking" means parent undertaking as defined in point 9 of Article 2 of Directive 2013/34/EC;
- b) "subsidiary undertaking" means subsidiary undertaking as defined in point 10 of Article 2 of Directive 2013/34/EC;
- c) "group" means a parent company, all its subsidiaries and all undertakings under the control of a subsidiary which is part of the group.

For the purposes of applying the first subparagraph, where the parent company, the subsidiary or the other entity undertaking of the group are each established in different Member States, the video-sharing platform provider shall be deemed to have been be established in the Member State where its parent company is established or, in the absence of such an establishment, in a the Member State where its subsidiary is established or, in the absence of such an establishment, in a the Member State where the other entity undertaking of the group is established.

~~For the purposes of applying the second subparagraph, where there are several subsidiaries each of which are established in different Member States, or where there are several other entities of the group each of which are established in different Member States, the Member States concerned shall ensure that the provider designates in which of these Member States it shall be deemed to have been established.~~

For the purposes of applying the second subparagraph, where there are several subsidiaries and each of them are established in different Member States, the video-sharing platform provider shall be deemed to be established in the Member State where one of the subsidiaries first began its activity. Where there are several undertakings under the control of a subsidiary which is part of the group and each of them is established in different Member States, the video-sharing platform provider shall be deemed to be established in the Member State where one of such undertakings first began its activity.

2. Member States shall maintain an up-to-date list of the video-sharing platform providers established on their territory and indicate on which criteria, set out in Article 3(1) of Directive 2000/31/EC and in paragraph 1, their jurisdiction is based. Member States shall communicate this list, including any updates, to the Commission. In case of inconsistencies the Commission shall contact the Member States concerned in order to find a solution. The Commission shall ensure that the national regulatory authorities have access to this list. To the extent possible, the Commission shall make this information publicly available.

III. Provisions related to JURISDICTION AND COOPERATION PROCEDURES

CHAPTER II

GENERAL PROVISIONS FOR AUDIOVISUAL MEDIA SERVICES

Article 2

1. Each Member State shall ensure that all audiovisual media services transmitted by media service providers under its jurisdiction comply with the rules of the system of law applicable to audiovisual media services intended for the public in that Member State.
2. For the purposes of this Directive, the media service providers under the jurisdiction of a Member State are any of the following:
 - (a) those established in that Member State in accordance with paragraph 3;
 - (b) those to whom paragraph 4 applies.
3. For the purposes of this Directive, a media service provider shall be deemed to be established in a Member State in the following cases:
 - (a) the media service provider has its head office in that Member State and the editorial decisions about the audiovisual media service are taken **on a daily basis** in that Member State;

- (b) if a media service provider has its head office in one Member State but editorial decisions on the audiovisual media service are taken on a daily basis in ~~one or more~~ another Member State or other Member States, it shall be deemed to be established in the Member State where the majority of the workforce¹¹, involved in the pursuit of the ~~content~~ programme-related audiovisual media service activities, operates;
- (c) if a media service provider has its head office in a Member State but decisions on the audiovisual media service are taken in a third country, or vice versa, it shall be deemed to be established in the Member State concerned, provided that a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in that Member State.
4. Media service providers to whom the provisions of paragraph 3 are not applicable shall be deemed to be under the jurisdiction of a Member State in the following cases:
- (a) they use a satellite up-link situated in that Member State;
- (b) although they do not use a satellite up-link situated in that Member State, they use satellite capacity appertaining to that Member State.

¹¹ *A following recital to be added: If editorial decisions are taken on a daily basis in more than two Member States, the majority is determined on the basis of the biggest share of the workforce involved in the pursuit of content-related audiovisual media service activities.*

5. If the question as to which Member State has jurisdiction cannot be determined in accordance with paragraphs 3 and 4, the competent Member State shall be that in which the media service provider is established within the meaning of Articles 49 to 55 of the Treaty on the Functioning of the European Union.
- 5aa. Member States shall ensure that media service providers inform the competent national regulatory authorities about any changes that may affect the establishment of jurisdiction in accordance with paragraphs 2, 3 and 4.**
- 5a. Member States shall establish and maintain an up-to-date list of the audiovisual media service providers under their jurisdiction and indicate on which criteria, set out in paragraphs 2 to 5, their jurisdiction is based. Member States shall communicate this list, including any updates, to the Commission. In case of inconsistencies between the lists, the Commission shall contact the Member States concerned in order to find a solution. The Commission shall ensure that the national regulatory authorities have access to this list. To the extent possible, the Commission shall make this information publicly available.**
- 5b. Where, in applying Articles 3 and 4 of this Directive, the Member States concerned do not agree on which Member State has jurisdiction, they shall bring the matter to the Commission's attention without undue delay. The Commission may request the European Regulators Group for Audiovisual Media Services (ERGA) to provide an opinion in accordance with Article 30a(3)(e) on the matter within 15 working days from submission of the Commission's request. The Commission shall keep the Contact Committee informed at all stages.**
6. This Directive does not apply to audiovisual media services intended exclusively for reception in third countries and which are not received with standard consumer equipment directly or indirectly by the public in one or more Member States.

Article 3

- 1. Member States shall ensure freedom of reception and shall not restrict retransmissions on their territory of audiovisual media services from other Member States for reasons which fall within the fields coordinated by this Directive.**
- 2. Member States may provisionally derogate from paragraph 1 if an audiovisual media service provided by a media service provider under the jurisdiction of another Member State:**
 - (a) manifestly, seriously and gravely infringes Articles 6 or 12(1);**
 - (b) prejudices or presents a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence; or**
 - (c) prejudices or presents a serious and grave risk of prejudice to public health.**
- 3. Member States may only apply paragraph 2 where the following conditions are met:**
 - (a) during the 12 months preceding the notification referred to in point (b) of this paragraph, the broadcaster has, in the opinion of the Member State concerned, infringed point (a), (b) or (c) of paragraph 2 on at least ~~one~~ two occasions;**
 - (b) the Member State concerned has notified the media service provider, the Member State which has jurisdiction over the provider and the Commission in writing of the alleged infringements and of the measures it intends to take should any such alleged infringements occur again;**

- (c) consultations with the Member State which has jurisdiction over the provider and the Commission have not produced an amicable settlement within one month of the notification provided for in point (b);
- (d) the broadcaster has infringed point (a), (b) or (c) of paragraph 2 at least once after the notification provided for in point (b) of this paragraph;
- (e) the notifying Member State has respected the rights of defence of the media services provider concerned in respect of points b) and d) and, in particular, has given the media services provider the opportunity to express its views on the alleged infringements within a period set out in national law and the measures that that Member State intends to take. It shall duly consider those views as well as the views of the Member State of jurisdiction.

Points (a) and (d) of paragraph 3 shall apply only in respect of linear services.

4. The Commission shall, within three months following the complete notification of the measures taken by the Member State in application of paragraphs 2 and 3 take a decision on whether those measures are compatible with Union law. The Commission may request ERGA to provide an opinion in accordance with Article 30a(3)(e). The Commission shall keep the Contact Committee informed at all stages.

The notification shall be considered as complete if it contains all necessary information necessary to assess the criteria in paragraph 2 and the conditions in paragraph 3 as requested in paragraphs 2 and 3 and if, within one month from its receipt, the Commission does not request any further information strictly necessary to reach a decision.

Where the Member State concerned does not provide this information within the period set out by the Commission, the Commission shall reject the notification on the grounds of incomplete notification. As a result, the Member State shall put an end to the measures in question as a matter of urgency, without prejudice to the possibility of that Member State submitting a new notification.

- 4a. **The Commission shall examine the compatibility of the notified measures with Union law. Where it comes to the conclusion that these measures are incompatible with Union law, the Commission shall require the Member State concerned to refrain from taking any intended measures or to urgently put an end to those measures.**
5. **Paragraphs 3 and 4 shall be without prejudice to the application of any procedure, remedy or sanction to the infringements in question in the Member State which has jurisdiction over the media service provider concerned.**
6. **Without prejudice to point (e) of paragraph 3, Member States may, in urgent cases, derogate from the conditions laid down in points (b) to (d) of paragraph 3. Where this is the case, the measures shall be notified in the shortest possible time to the media service provider, the Commission and to the Member State which has jurisdiction over the media service provider, setting out the reasons for which the Member State considers that there is such urgency that derogating from those conditions is necessary.**
7. **The Commission shall examine the compatibility of the notified measures with Union law in the shortest possible time. Where it comes to the conclusion that these measures are incompatible with Union law, the Commission shall require the Member State concerned to urgently put an end to those measures.**
8. **Member States and the Commission shall regularly exchange experiences and best practices regarding the procedure set out in paragraphs 2 to 7 in the framework of the contact committee established pursuant to Article 29 and ERGA.**

Article 4

1. **Member States shall remain free to require media service providers under their jurisdiction to comply with more detailed or stricter rules in the fields coordinated by this Directive, provided that such rules are in compliance with Union law.**
2. In cases where a Member State:
 - (a) has exercised its freedom under paragraph 1 to adopt more detailed or stricter rules of general public interest; and
 - (b) assesses that a **media service provider** under the jurisdiction of another Member State provides **an audiovisual media service** which is wholly or mostly directed towards its territory;

it may contact the Member State having jurisdiction with a view to achieving a mutually satisfactory solution to any problems posed. On receipt of a substantiated request by the first Member State, the Member State having jurisdiction shall request the **media service provider** to comply with the rules of general public interest in question. The Member State having jurisdiction shall inform the first Member State **and the Commission** of the results obtained following this request within 2 months. Either Member State may invite the contact committee established pursuant to Article 29 to examine the case.

3. The first Member State may adopt appropriate measures against the **media service provider** concerned where it assesses that:
 - (a) the results achieved through the application of paragraph 2 are not satisfactory; and
 - (b) the **media service provider** in question has established itself in the Member State having jurisdiction in order to circumvent the stricter rules, in the fields coordinated by this Directive, which would be applicable to it if it were established in the first Member State.

[...]¹²

¹² Text moved to a new Article 30-a.

- 4. A Member State may take measures pursuant to paragraph 3 only where the following conditions are met:**
- (a) it has notified the Commission and the Member State in which the media service provider is established of its intention to take such measures while substantiating the grounds on which it bases its assessment;**
 - (b) it has respected the rights of defence of the media service provider concerned and, in particular, has given the media service provider the opportunity to express its views on the alleged circumvention and the measures the notifying Member States intends to take;**
 - (c) the Commission has decided that the measures are compatible with Union law, in particular that assessments made by the Member State taking those measures under paragraphs 2 and 3 are correctly founded. The Commission may request ERGA to provide an opinion in accordance with Article 30a(3)(e). The Commission shall keep the Contact Committee informed at all stages.**
- 5. The Commission shall decide within 3 months following the complete notification provided for in point (a) of paragraph 4. The notification shall be considered as complete if, within one month from its receipt, the Commission does not request any further information strictly necessary to reach a decision.**

Where the Member State concerned does not provide this information within the period set out by the Commission, the Commission shall reject the notification on the grounds of incomplete notification. As a result, the Member State shall refrain from taking the intended measures.

6. Member States shall, by appropriate means, ensure, within the framework of their legislation, that media service providers under their jurisdiction effectively comply with the provisions of this Directive.
7. [...] ¹³
8. Directive 2000/31/EC shall apply unless otherwise provided for in this Directive. In the event of a conflict between a provision of Directive 2000/31/EC and a provision of this Directive, the provisions of this Directive shall prevail, unless otherwise provided for in this Directive.

Article 5

Member States shall ensure that audiovisual media service providers under their jurisdiction shall make easily, directly and permanently accessible to the recipients of a service at least the following information:

- (a) the name of the media service provider;
- (b) the geographical address at which the media service provider is established;
- (c) the details of the media service provider, including its electronic mail address or website, which allow it to be contacted rapidly in a direct and effective manner;
- (d) **the Member State having jurisdiction over the media service providers and the competent regulatory authorities or supervisory bodies.**

¹³ Text on co-/self-regulation moved to a separate topic (V.).

IV. Provisions related to QUOTA AND FINANCIAL CONTRIBUTIONS

Article 13

1. Member States shall ensure that **media service providers of on-demand audiovisual media services** ~~provided by media service providers~~ under their jurisdiction secure at least a 20% share of European works in their catalogue and ensure prominence of these works¹⁴.
2. Member States may require media service providers under their jurisdiction to contribute financially to the production of European works including via direct investment in content and contribution to national funds.
 - 2a.** Member States may require media service providers targeting audiences in their territories, but established in other Member States to make such financial contributions. In this case, the financial contribution shall be based only on the revenues earned in the targeted Member States. If the Member State where the provider is established imposes **such** a financial contribution, it shall take into account any financial contributions imposed by targeted Member States. Any financial contribution shall comply with Union law, in particular with State aid rules.

¹⁴ ***Recital 21 to be modified as follows:*** "Providers of on-demand audiovisual media services should promote the production and distribution of European works by ensuring that their catalogues contain a minimum share of European works and that those are given enough prominence. Prominence is about promoting European works, creating an audience and **though** facilitating access to such works. Prominence can be ~~carried out~~ **ensured** through various means such as a dedicated section for European works that is accessible from the service homepage, possibility to search for European works in the search tool available as part of the service, the use of European works in campaigns of the service or a minimum percentage of European works promoted from the catalogue e.g. by using banners or similar tools."

3. Member States shall report to the Commission by [date – no later than three years after adoption] at the latest and every two years thereafter on the implementation of paragraphs 1 and 2.
 4. The Commission shall, on the basis of the information provided by Member States and of an independent study, report to the European Parliament and to the Council on the application of paragraphs 1, 2 and 2a, taking into account the market and technological developments and the objective of cultural diversity.
 5. Member States shall waive the requirements laid down in paragraphs 1 and 2a for providers with a low audience or if they are micro enterprises as defined in the Commission Recommendation of 6 May 2003¹⁵. Member States may also waive such requirements in cases where they would be impracticable or unjustified by reason of the nature or theme of the audiovisual media services.¹⁶
- 5a. The Commission shall consult the Contact Committee on guidelines regarding the calculation of the share of European works referred to in paragraph 1 and regarding the definition of the concept of low audience referred to in paragraph 5.**

¹⁵ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

¹⁶ ***Recital 25 to be modified as follows:*** "In order to ensure that obligations on promotion of European works do not undermine market development and to allow for the entry of new players in the market, companies with no significant presence on the market should not be subject to such requirements. This is in particular the case for companies with a low turnover and low audiences and for small and micro enterprises as defined in Commission Recommendation 2003/361/EC. **Low audience can be determined for instance on the basis of a viewing time or sales, depending on the nature of the service.** It could also be inappropriate to impose such requirements in cases where – given the nature or theme of the on-demand audiovisual media services– they would be impracticable or unjustified."

V. Provisions related to CO-/SELF-REGULATION AND UNION CODES OF CONDUCT

Article 4a (new)

1. Member States may are encouraged to use co-regulation and to foster self-regulation through codes of conduct adopted at national level in the fields coordinated by this Directive to the extent permitted by their legal systems.¹⁷ Those codes shall:
 - a) be broadly accepted by the main stakeholders in the Member States concerned,
 - b) clearly and unambiguously set out their objectives,
 - c) provide for regular, transparent and independent monitoring and evaluation of the achievement of the objectives aimed at, and
 - d) provide for effective enforcement.

2. Member States and the Commission may encourage foster self-regulation through Union codes of conduct in Articles 9(4a), 12(1a) and 28a(8). These codes shall be drawn up by media service providers, video-sharing platform service providers or organisations representing them, in cooperation, as necessary, with other sectors such as industry, trade, professional and consumer associations or organisations. These codes shall be broadly accepted by the main stakeholders at Union level and shall comply with points b) to d) of paragraph 1. The Union codes of conduct shall be without prejudice to the national codes of conduct and shall only complement those national codes.

¹⁷ *Recital 44 of the 2010/13 AVMS Directive is of particular relevance in this context, specifically:* "Without prejudice to formal obligations of the Member States regarding transposition, this Directive encourages the use of co-regulation and self-regulation. This should neither oblige Member States to set up co-regulation and/or self-regulatory regimes nor disrupt or jeopardise current co-regulation or self-regulatory initiatives which are already in place within Member States and which are working effectively."

The Commission shall make these codes publicly available and may give them appropriate publicity.¹⁸

The draft Union codes of conduct and amendments ~~thereof to existing Union codes of conduct~~ shall be submitted to the Commission by the signatories of these codes. The Commission shall consult the Contact Committee on ~~the those~~ draft codes or amendments thereof. ~~The Commission shall make these codes publicly available and may give them appropriate publicity.~~

Article 9

[...]

2. Member States ~~may are~~ encouraged ~~to use~~ co-regulation and ~~to foster~~ self-regulation through codes of conduct as provided for in Article 4a(1) regarding inappropriate audiovisual commercial communications, accompanying or included in children's programmes, of foods and beverages containing nutrients, and substances with a nutritional or physiological effect, in particular fat, trans-fatty acids, salt or sodium and sugars, of which excessive intakes in the overall diet are not recommended.

Those codes shall aim to effectively limit the exposure of minors to audiovisual commercial communications of foods and beverages that are high in salt, sugars or fat or that otherwise do not fit national or international nutritional guidelines, ~~without emphasising~~ Those codes shall also ensure that audiovisual commercial communications do not emphasise the positive quality of the nutritional aspects of such foods and beverages.

¹⁸ Wording previously found in the last subparagraph.

3. Member States may are encouraged to use co-regulation and to foster self-regulation through codes of conduct adopted at national level as provided for in Article 4a(1) regarding inappropriate audiovisual commercial communications for alcoholic beverages. Those codes shall aim to effectively limit the exposure of minors to audiovisual commercial communications for alcoholic beverages.
4. The Commission shall encourage the exchange of best practices on self- and co-regulatory codes of conduct referred to in paragraphs 2 and 3.
- 4a. Member States and the Commission may encourage foster self-regulation through Union codes of conduct referred to in Article 4a(2).

Article 12

[...]¹⁹

- 1a. Member States shall ensure that media service providers provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, media service providers shall use a system indicating describing the potentially harmful nature of the content of an audiovisual media service.²⁰

For the implementation of this paragraph, Member States may are encouraged to use co-regulation as provided for in Article 4a(1).

The Commission shall encourage media service providers to exchange best practices on co-regulatory codes of conduct.

¹⁹ Paragraphs 1a and 1b are addressed under the "protection of minors" theme (IX.).

²⁰ ***Recital 9 to be modified as follows:*** "In order to empower viewers, including parents and minors, in making informed decisions about the content to be watched, it is necessary that audiovisual media service providers provide sufficient information about content that may impair minors' physical, mental or moral development. This could be done, for instance, through a system of content descriptors indicating the nature of the content, an acoustic warning, a visual symbol or any other technical means, describing the nature of the content."

Member States and the Commission may encourage foster self-regulation through Union codes of conduct referred to in Article 4a(2).

[...]

Article 28a

[...]

3. For the purposes of the implementation of the measures referred to in paragraph 2, Member States may are encouraged to use co-regulation as provided for in Article 4a(1).

[...]

7. The Commission shall encourage video-sharing platform providers to exchange best practices on co-regulatory codes of conduct referred to in paragraph 3.

8. Member States and the Commission may encourage foster self-regulation through Union codes of conduct referred to in Article 4a(2).

VI. DEFINITIONS

Article 1

1. For the purposes of this Directive, the following definitions shall apply:
 - (a) 'audiovisual media service' means:²¹
 - (i) **a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union, where the principal purpose of the service or a dissociable section thereof is devoted to providing programmes, under the editorial responsibility of a media service provider, in order to inform, entertain or educate, to the general public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. Such an audiovisual media service is either a television broadcast as defined in point (e) of this paragraph or an on-demand audiovisual media service as defined in point (g) of this paragraph;**
 - (ii) audiovisual commercial communication;

²¹ ***Recital 3 to be modified as follows:*** “Directive 2010/13/EU should remain applicable only to those services the principal purpose of which is the provision of programmes in order to inform, entertain or educate. The principal purpose requirement should be also considered to be met if the service has audiovisual content and form which is dissociable from the main activity of the service provider, such as stand-alone parts of online newspapers featuring audiovisual programmes or user-generated videos where those parts can be considered dissociable from their main activity. ~~Social media services are not included, except if they provide a service that falls under the definition of a video-sharing platform.~~ A service should be considered to be merely an indissociable complement to the main activity as a result of the links between the audiovisual offer and the main activity. As such, channels or any other audiovisual services under the editorial responsibility of a provider may constitute audiovisual media services in themselves, even if they are offered in the framework of a video-sharing platform which is characterised by the absence of editorial responsibility. In such cases, it will be up to the providers with editorial responsibility to abide by the provisions of this Directive.”

[...] ²²

- (b) **‘programme’ means a set of moving images with or without sound, constituting an individual item, irrespective of its length, within a schedule or a catalogue established by a media service provider, including feature-length films, video clips, sports events, situation comedies, documentaries, children’s programmes and original drama;**
- (ba) **‘user-generated video’ means a set of moving images with or without sound constituting an individual item, irrespective of its length, that is created by a user and uploaded to a video-sharing platform by that user or any other user;**
- (c) ‘editorial responsibility’ means the exercise of effective control both over the selection of the programmes and over their organisation either in a chronological schedule, in the case of television broadcasts, or in a catalogue, in the case of on-demand audiovisual media services. Editorial responsibility does not necessarily imply any legal liability under national law for the content or the services provided;
- (d) ‘media service provider’ means the natural or legal person who has editorial responsibility for the choice of the audiovisual content of the audiovisual media service and determines the manner in which it is organised;

[...]

- (e) ‘television broadcasting’ or ‘television broadcast’ (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule;
- (f) ‘broadcaster’ means a media service provider of television broadcasts;

²² Paragraphs (aa) and (da) are addressed under the "video-sharing platform services" theme (II).

- (g) ‘on-demand audiovisual media service’ (i.e. a non-linear audiovisual media service) means an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider;
- (h) ‘audiovisual commercial communication’ means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement;
- (i) ‘television advertising’ means any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations, in return for payment;
- (j) ‘surreptitious audiovisual commercial communication’ means the representation in words or pictures of goods, services, the name, the trade mark or the activities of a producer of goods or a provider of services in programmes when such representation is intended by the media service provider to serve as advertising and might mislead the public as to its nature. Such representation shall, in particular, be considered as intentional if it is done in return for payment or for similar consideration;
- (k) ‘sponsorship’ means any contribution made by public or private undertakings or natural persons not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programmes with a view to promoting their name, trade mark, image, activities or products;

- (l) ‘teleshopping’ means direct offers broadcast to the public with a view to the supply of goods or services, including immovable property, rights and obligations, in return for payment;
 - (m) ‘product placement’ means any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, in return for payment or for similar consideration;
 - (n) ‘European works’ means the following:
 - (i) works originating in Member States;
 - (ii) works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe and fulfilling the conditions of paragraph 3;
 - (iii) works co-produced within the framework of agreements related to the audiovisual sector concluded between the Union and third countries and fulfilling the conditions defined in each of those agreements.
2. The application of the provisions of points (n)(ii) and (iii) of paragraph 1 shall be conditional on works originating in Member States not being the subject of discriminatory measures in the third country concerned.
3. The works referred to in points (n)(i) and (ii) of paragraph 1 are works mainly made with authors and workers residing in one or more of the States referred to in those provisions provided that they comply with one of the following three conditions:
- (i) they are made by one or more producers established in one or more of those States;
 - (ii) the production of the works is supervised and actually controlled by one or more producers established in one or more of those States;
 - (iii) the contribution of co-producers of those States to the total co-production costs is preponderant and the co-production is not controlled by one or more producers established outside those States.

4. Works that are not European works within the meaning of point (n) of paragraph 1 but that are produced within the framework of bilateral co-production agreements concluded between Member States and third countries shall be deemed to be European works provided that the co-producers from the Union supply a majority share of the total cost of production and that the production is not controlled by one or more producers established outside the territory of the Member States.

VII. Provisions related to HATE SPEECH AND TERRORISM

Article 6

Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any:

- aa) **incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;**²³

²³ ***Recital 8 to be modified:*** "In order to ensure coherence and give certainty to businesses and Member States' authorities, the notion of "incitement to **violence or hatred**" should, to the appropriate extent, be aligned to the definition in the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law ~~which defines hate speech as "publicly inciting to violence or hatred"~~. This should include aligning the grounds on which incitement to ~~violence or hatred is based.~~"

- ab) public provocation incitement to commit a terrorist offence as defined in Article 5 3(1) of Directive 2017/XXX/EU on combating terrorism.²⁴

VIII. Provisions related to ACCESSIBILITY

Article 7

- 1.** Member States shall ensure that media service providers under their jurisdiction develop appropriate and proportionate measures to enable their services to be made increasingly and continuously progressively accessible to people with a visual or hearing disability.
- 2.** Member States shall ensure that media service providers report, on an annual basis, to the national regulatory authorities or bodies on the implementation of the measures referred to in paragraph 1.
- 3.** Where feasible, Member States shall ensure that emergency information, including public communications and announcements in natural disaster situations, which is made public through audiovisual media services, is provided in a manner which is accessible to persons with disabilities a visual or hearing disability.

²⁴ *A new recital 8a to be added:* The terrorist threat has grown and evolved in recent years. Offences related to terrorist activities are of a very serious nature as they can lead to a terrorist act being committed. These offences comprise, inter alia, the glorification and justification of terrorism or the dissemination of messages or images both online and offline. Therefore, and in order to protect the population from such threats, there is a need to address this incitement to commit a terrorist offence in this Directive. In order to ensure coherence and give legal certainty to businesses and Member States' authorities, the definition of 'public provocation to commit a terrorist offence' should be aligned, to the appropriate extent, with Article 5 of the Directive on Combating Terrorism.

IX. Provisions related to PROTECTION OF MINORS

Article 12

1. Member States shall take appropriate measures to ensure that programmes provided by audiovisual media service providers under their jurisdiction, which may impair the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will not normally hear or see them. Such measures may include selecting the time of the broadcast, age verification tools or other technical measures. They shall be proportionate to the potential harm of the programme.

The most harmful content, such as gratuitous violence and pornography, shall be subject to ~~the strictest~~ strict access control measures, such as encryption and effective parental controls, without prejudice to Member States adopting stricter measures.

The Commission may encourage media service providers to exchange best practices on co-regulatory codes of conduct. Where appropriate, Member States and the Commission may encourage self-regulation through Union codes of conduct.

- 1b. In addition to the measures referred to in paragraphs 1 and 1a, Member States shall encourage policies and schemes to develop media literacy skills.

X. Provisions related to SUPERVISION AND MONITORING

CHAPTER XI

REGULATORY AUTHORITIES OR BODIES OF THE MEMBER STATES

Article 30

1. Each Member State shall designate one or more national regulatory authorities or bodies. Member States shall ensure that they are legally or structurally distinct from the government and functionally independent of any other public or private body. This shall be without prejudice to the possibility for Member States to set up regulators having oversight over different sectors.²⁵
2. Member States shall ensure that national regulatory authorities or bodies exercise their powers impartially and transparently and in accordance with the objectives of this Directive. National regulatory authorities or bodies shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law. This shall not prevent supervision in accordance with national constitutional law.

²⁵ *Recital 33 to be modified as follows:* “Regulatory authorities of the Member States **should** achieve the requisite degree of structural independence ~~only if established as separate legal entities~~. Member States should therefore guarantee the independence of the national regulatory authorities from both the government, public bodies and the industry with a view to ensuring the impartiality of their decisions. This requirement of independence should be without prejudice to the possibility for Member States to establish regulators having oversight over different sectors, such as audiovisual and telecom. National regulatory authorities should be in possession of the enforcement powers and resources necessary for the fulfilment of their tasks, in terms of staffing, expertise and financial means. The activities of national regulatory authorities established under this Directive should ensure respect for the objectives of media pluralism, cultural diversity, consumer protection, the internal market and the promotion of fair competition.”

3. The competences and powers of the independent regulatory authorities or bodies, as well as the ways of making them accountable shall be clearly defined in national law.
4. Member States shall ensure that national regulatory authorities or bodies have adequate financial and human resources and enforcement powers to carry out their functions effectively. Member States shall ensure that national regulatory authorities or bodies have separate annual budgets which shall be made public.
5. The Head of a national regulatory authority or body or the members of the collegiate body fulfilling that function within a national regulatory authority or body may be dismissed only if they no longer fulfil the conditions required for the performance of their duties which are laid down in advance in national law. A dismissal decision shall be made public.
6. *[deleted]*
7. Member States shall ensure that effective appeal mechanisms exist at national level. The appeal body, which may be a court, shall be independent of the parties involved in the appeal ~~and shall have the appropriate expertise to enable it to carry out its functions effectively.~~ The parties involved in the appeal are any user, media service provider or video sharing platform provider that was affected by the decision of a national regulatory authority or body.

Pending the outcome of the appeal, the decision of the national regulatory authority or body shall stand, unless interim measures are granted in accordance with national law.

Article 30-a (new)

Member States shall ensure that their national regulatory authorities or bodies take appropriate measures to provide each other and the Commission with the information necessary for the application of this Directive, in particular Articles 2, 3 and 4.

Member States shall ensure that when their national regulatory authorities or bodies receive information from a media service provider under their jurisdiction that wishes to provide a service wholly or mostly directed at the audience of another Member State, the national regulatory authority or body in the Member State having jurisdiction shall inform the national regulatory authority or body of the receiving Member State.

Article 30a²⁶

1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established.

²⁶ *Recitals 36 and 37 are to be modified as follows:*

- (36) ERGA has made a positive contribution towards consistent regulatory practice and has provided high level advice to the Commission on implementation matters. This calls for the formal recognition and reinforcement of its role in this Directive. The group should therefore be ~~re~~-established by virtue of this Directive.
- (37) The Commission should be free to consult ERGA on any matter relating to audiovisual media services and video-sharing platforms. ERGA should assist the Commission by providing **its technical** expertise and advice and by facilitating **the** exchange of best practices, **including on self- and co-regulatory codes of conduct**. In particular, the Commission should consult ERGA in the application of Directive 2010/13/EU with a view to facilitating its convergent implementation across the Digital Single Market. Upon the Commission's request, ERGA should provide **non-binding** opinions, ~~including~~ on jurisdiction, **on the compatibility with Union law of measures derogating from the freedom of reception principle and on measures addressing circumvention of jurisdiction**. **ERGA should also be able to provide technical advice on any regulatory matter related to audiovisual media service framework, including and Union codes of conduct** in the area of protection of minors and hate speech, as well as **on the content of** audiovisual commercial communications for foods high in fat, salt/sodium and sugars.

2. It shall be composed of representatives of national regulatory authorities or bodies in the field of audiovisual media services. A Commission representative shall participate in ERGA meetings.
3. ERGA shall have the following tasks:
 - (a) to provide technical expertise to the Commission to ensure a consistent implementation of the regulatory framework for audiovisual media services;
 - (b) *[deleted]*
 - (c) to exchange experience and best practices on the application of the regulatory framework for audiovisual media services;
 - (d) to cooperate and provide its members with the information necessary for the application of this Directive, in particular as regards Articles 3 and 4 thereof;
 - (e) to give opinions, when requested by the Commission, on the technical and factual aspects of the issues pursuant to Articles 2(5b), 3(4) and 4(4)(c).
4. ERGA shall adopt its rules of procedure.

CHAPTER XII

FINAL PROVISIONS

Article 31

In fields which this Directive does not coordinate, it shall not affect the rights and obligations of Member States resulting from existing conventions dealing with telecommunications or broadcasting.

Article 32

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 33

The Commission shall monitor Member States' application of this Directive.

By [date – no later than four years after adoption] at the latest, and every three years thereafter, the Commission shall submit to the European Parliament, to the Council and to the European Economic and Social Committee a report on the application of this Directive.

By [date - no later than 8 years after adoption] at the latest, the Commission shall submit to the European Parliament and the Council an ex post evaluation, accompanied where appropriate by proposals for its review, in order to measure the impact of the Directive and its added value.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by *[date – no later than 2 years after entry into force]* at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President