

REPORTS RELATING TO THE APPLICATION OF THE AVMS DIRECTIVE

1. INTRODUCTION

Under the terms of AVMS Directive, the Commission has new reporting obligations following the directive's application, as shown in the comparative table below:

<p>TVwF (Directive 89/552/EEC as amended by Directive 97/36/EC)</p>	<p>AVMSD (Directive 89/552/EEC as amended by Directive 97/36/EC and by Directive 2007/65/EC)</p>
<p>1) Promotion of European works in broadcast services</p> <p>From 3 October 1991, the Member States shall provide the Commission every two years with a report on the application of Article 4 and Article 5.</p> <p>That report shall in particular include a statistical statement on the achievement of the proportion referred to in Article 4 and Article 5 for each of the television programmes falling within the jurisdiction of the Member State concerned, the reasons, in each case, for the failure to attain that proportion and the measures adopted or envisaged in order to achieve it.</p> <p>The Commission shall inform the other Member States and the European Parliament of the reports, which shall be accompanied, where appropriate, by an opinion. The Commission shall ensure the application of Article 4 and Article 5 in accordance with the provisions of the Treaty. The Commission may take account in its opinion, in particular, of progress achieved in relation to previous years, the share of first broadcast works in the programming, the particular circumstances of new television broadcasters and the specific situation of countries with a low audiovisual production capacity or restricted</p>	<p>1) Promotion of European works in broadcast services</p> <p>Idem</p>

language area.

The Council shall review the implementation of this Article on the basis of a report from the Commission accompanied by any proposals for revision that it may deem appropriate no later than the end of the fifth year from the adoption of the Directive.

To that end, the Commission report shall, on the basis of the information provided by Member States under paragraph 3, take account in particular of developments in the Community market and of the international context.

3. General application report

Not later than 31 December 2000, and every two years thereafter, the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive as amended and, if necessary, make further proposals to adapt it to developments in the field of television broadcasting, in particular in the light of recent technological developments.

2. Promotion of the production of and access to European works in on demand services.

Member States shall report to the Commission no later than 19 December 2011 and every four years thereafter on the implementation of paragraph 1 of Art. 3 i.

The Commission shall, on the basis of the information provided by Member States and of an independent study, report to the European Parliament and the Council on the application of paragraph 1 of Art. 3 i, taking into account the market and technological developments and the objective of cultural diversity."

3. General application report

Not later than 19 December 2011, and every three years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive and, if necessary, make further proposals to adapt it to developments in the field of audiovisual media services, in particular in the light

	<p>of recent technological developments, the competitiveness of the sector and levels of media literacy in all Member States.</p> <p>This report shall also assess the issue of television advertising accompanying or included in children's programmes, and in particular whether the quantitative and qualitative rules contained in this Directive have afforded the level of protection required."</p>
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2. IMPLEMENTATION OF ARTICLE 26

Although not explicitly mentioned in the Directive, the triennial report on the application of the Directive (Article 26 AVMSD), requires Member States to supply all necessary national information to the Commission so that the Commission can report on the application of the Directive and in particular on the following issues:

- the media literacy levels in all Member States,
- advertisements accompanying the children's programmes or other audiovisual commercial communication included in these programmes,
- the level of protection achieved by the quantitative and qualitative rules of the directive on television advertising.

Consequently, Member States will have to provide the Commission with relevant facts and evaluations. Moreover, within this framework, it will be appropriate for, Member States to provide the Commission with information on the implementation at national level of the following provisions:

- the codes of conduct concerning the audiovisual commercial communication on certain drinks or food accompanying or included in children's programmes (Article 3(2) AVMSD); as well as
- the systems of self- or co-regulation encouraged by the Member States at national level aiming at an effective application of the rules (Article 3(7) AVMSD).

If necessary, Member States will be able to specify whether consumer protection is enhanced by these measures, particularly protection of minors and, if this is the case, up to what point.

This report is also an opportunity to provide an outline of the implementation, in the Member States, of the provision concerning the progressive accessibility of services for visually or hearing impaired persons (Article 3c AVMSD). Member States will therefore have to provide the Commission with all relevant information hereto.

The reports of the Member States concerning all these points should reach the Commission six months before the date of the adoption of the triennial application report.

3. Reporting on the promotion of European works (Art. 3i, 4 and 5)

No later than 19 December 2011 and every four years thereafter, Member States are obliged to report to the Commission on the implementation of Art 3i of the Directive. At the same time, the biennial reporting exercise of the application of Art 4 and 5 will continue. To synchronise these two reporting obligations, we consider that the 10th report on Art 4 and 5 (for the reference period 2009-2010) could be combined with the first report on the implementation of Art 3i (for the year 2010). We plan to request information from the Member States on these two aspects in mid-2011, with the view of the adoption of the joint report in mid-2012.

DRAFT QUESTIONNAIRE TO MEMBER STATES

1. Media Literacy

- a. Has the level of media literacy increased in your country? If so, what policy did you develop to support this trend?
- b. What are the main challenges in promoting media literacy?
- c. What kinds of tools have you used to promote media literacy?

2. Accessibility

- a. Which progress has been made (since the last report) in ensuring accessibility to audiovisual media services?
- b. What are the targets for public service and commercial broadcasters with regard to subtitling and audio description?
- c. Have any innovative measures to increase accessibility been taken?

3. Audiovisual commercial communications accompanying or included in children's programmes

- a. Have codes of conduct regarding inappropriate audiovisual commercial communications as referred to in Article 3e(2) of Directive 2007/65/EC been developed in your country?
- b. If so, please give detailed information on the provisions of such codes, the operators or authorities responsible for its application and the effects such codes have had on the protection of children;
- c. If not, what measures did you take in order to encourage the development of such codes pursuant to Article 3e(2) of Directive 2007/65/EC.

4. Level of protection achieved by the qualitative and quantitative rules contained in the Directive

- a. Please indicate if the provisions on audiovisual commercial communications in your country strictly correspond to the qualitative and/or quantitative rules in the Directive 89/552 as amended by Directive 2007/65 or if they contain stricter requirements in some areas
- b. If appropriate, please give details on the stricter provisions and specify the objective of general interest underlying such provisions.