

**MINUTES OF THE 36TH MEETING OF THE CONTACT COMMITTEE ESTABLISHED
BY THE AUDIOVISUAL MEDIA SERVICES DIRECTIVE
08/06/2012 — BRUSSELS**

1. Adoption of the agenda

The Chair welcomed the members of the Contact Committee. The minutes of the previous meeting and the agenda were adopted.

2. Connected TV

Building on previous discussion in the Committee, the Commission outlined five major issues as focal points for policy development in respect of Connected TV: (i) ensuring the best possible conditions for EU business in an international marketplace; (ii) identifying and addressing specific additional needs to protect European values, such as the protection of minors, promotion of accessibility and European programming; (iii) identifying key technologies and possible areas for European standardisation efforts; (iv) determining scope and jurisdiction ; and (v) addressing competition issues. It also stressed that its working definition of Connected TV went beyond Internet-enabled television to include connected devices more generally, the interplay between them (e.g., tablets and television sets) and over-the-top delivery of audiovisual content in general.

The delegations of DE, AT, FR, UK, FI, EE and HU spoke on national plans for Connected TV and raised as issues needing further consideration jurisdiction and editorial responsibility, competition and consumer protection, copyright (incl. questions of programme integrity) and media literacy, technology and content access and creation. The latter was seen as posing particular challenges for small markets increasingly subject to competitive pressures from abroad. DE brought into play again the idea of a Content Directive, which should abandon quantitative advertising limitations and simultaneously improve the protection of minors and personality rights.

The Cypriot Presidency conference on 25 and 26 October 2012 will also deal with Connected TV and the Commission will publish of a policy document before the end of 2012. Future policy development will have to examine the rather slow take-up and devise means allowing the EU to assume a leading role internationally.

3. Media Pluralism & Media Futures

The Commission informed the Contact Committee of the on-going activities of the High Level Group on Media Freedom and Pluralism and the EU Media Futures Forum. The Forum is expected to deliver its recommendations before the summer break, whilst the High Level Group will present its report by the end of 2012.

In response to questions asked by the delegations, the Commission explained that while the work of the High Level Group constituted a distinct response to concerns articulated by the European Parliament, the latter would report independently on issues of media pluralism. Meanwhile, the Commission would remain attentive to such issues in the Member States and build on its close collaborative links with the Council of Europe when assessing national legislation, as illustrated by the case of Hungary. It drew attention to the availability of the Media Pluralism Monitor that had resulted

from a research project it had funded as an aid for Member States and interested third parties to assess the domestic situation with regard to media pluralism.¹

4. Transposition AVMSD – State of play

The Commission identified missing transposition measures in BE and PL. The PL and BE delegations informed the Committee of the stage reached in preparing the necessary legislative measures and outlined expected timelines for adoption.

5. Infringement procedures AVMSD

The Commission exchanged letters with 24 Member States on substantive aspects of transposition. This was followed up by 16 bilateral meetings.

The Commission emphasized three topics of particular concern across multiple Member States: (i) extension of the cooperation and circumvention procedure to on-demand services; (ii) lack of concrete measures to promote European works in on-demand services; and (iii) measures of a problematic nature to ensure the protection of minors in on-demand services.

On the first of these, the Commission noted that while Member States remained free to devise procedures to deal with on-demand services targeting their jurisdiction based on the Court's case-law, such rules could not provide for a Commission decision.

For the promotion of European works in on-demand services, Member States are invited to specify concrete implementation measures. The Commission considered that ensuring the prominence of European works in providers' catalogues could constitute a minimum requirement in this respect.

With regard to the protection of minors in on-demand services, the Commission observed that several Member States had instituted rather light obligations such as visual warnings or watersheds. It emphasized that where Member States had limited transposition to this type of measures, they would be expected to submit evidence illustrating the measures' effectiveness, and that PIN codes might provide more appropriate means of protecting minors than watersheds in on-demand services. The latter could reasonably only be used where no other means of protection were available.

6. The first application report on the AVMSD

The Commission stressed market dynamism during the reference period as evidenced by substantial growth in the number of services covered by the AVMSD and the continued emergence of new forms of audiovisual commercial communication. For the first time an analysis of the application of the qualitative rules on audiovisual commercial communication had been solicited. This monitoring, the methodology of which is set out in a staff working document accompanying the report, showed few direct infringements.

Further work on this aspect will be carried out, as regards definitional questions, in the context of the revision of its Interpretative Communication on television advertising, and, as regards the effectiveness of the qualitative rules, in the context of a study to be launched in 2013. Such

¹ The Media Pluralism Monitor (MPM) tool can be downloaded from: http://ec.europa.eu/information_society/media_taskforce/doc/pluralism/study/monitor.xls. General information about the study and the wider policy context from which it emerged plus the User Guide can be found at: http://ec.europa.eu/information_society/media_taskforce/pluralism/study/index_en.htm.

considerations will also inform the Commission's policy document on Connected TV due by the end of 2012.

7. Interpretative communication on television advertising

The Commission summarized problematic practices identified by the monitoring of audiovisual commercial communication and indicated how these related to the review of the Interpretative Communication on television advertising.

It announced the submission in the near future of a set of questions for the attention of the Committee's members and the members of the Regulators' Group to identify relevant issues. Delegations welcomed the review of the Interpretative Communication, stressing its relevance to regulatory practice, and enlisted a number of issues that would benefit from consideration in the review, in particular, the distinction between sponsorship and product placement and undue prominence of the latter, the possible advertising character of sponsorship announcements, self-and cross-promotion and audiovisual commercial communication in the context of Connected TV.

8. Amendment of Annex XI to the EEA Agreement

The Commission was happy to inform the Contact Committee that adoption by the EEA Joint Committee of the decision integrating the AVMSD into Annex XI to the EEA Agreement was foreseen for 15 June 2012.

9. Any other business

The FR delegation raised two questions concerning the regulatory treatment of download services and jurisdiction over satellite uplinks. The delegation agreed to submit fuller details to the Commission to facilitate their assessment, and the latter undertook to keep the Committee's members informed of its thinking on these issues.