

Comparative table:
Directive 2010/13/EU versus the Proposal for an updated
Audiovisual Media Services Directive

Proposal for an updated Directive 2010/13/EU (III)

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On-demand services to reserve at least 20% share for European works in their catalogues; Member States be allowed to impose financial contributions on on-demand services in their jurisdictions as well as on those established in a different Member State but targeting their national audiences; and the scope of the updated Directive to extend, in certain respects, to video-sharing platform services which do not have editorial responsibility for the content that they store but which organise that content.

On 25 May a range of initiatives aimed at strengthening the single market were presented by the European Commission as part of its “digital single market strategy for Europe”. This paper focuses on some of the most salient aspects of the new regulation proposed for the audiovisual sector.

With the aim, among others, of achieving a level playing field for all market players, the European Commission has adopted the 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 {COM(2016)287}, which is accompanied by a Commission Staff Working Document, the Executive Summary of the Impact Assessment {SWD(2016) 169 final}. At

the same time and in response to an audiovisual market where much of the public consumes more audiovisual content over the Internet than through traditional TVs, the European Commission published a Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Online Platforms and the Digital Single Market Opportunities and Challenges for Europe {COM(2016)288}. Therein a new regulatory regime for online platforms is proposed, imposing obligations - such as a share of European content - similar to those imposed on traditional broadcasters.

Below follows a summary table comparing the rules for audiovisual media services contained in Directive 2010/13/EU with the rules provided in the proposal for an updated audiovisual media services directive.

DIRECTIVE 2010/13/EU	PROPOSAL FOR AN UPDATED DIRECTIVE 2010/13/EU
<p>Definition of audiovisual media service (art. 1(1))</p> <p>1. For the purposes of this Directive:</p> <p>“(a) ‘audiovisual media service’ means:</p> <p>(i) a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union which is under the editorial responsibility of a media service provider and the principal purpose of which is the provision of programmes, 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;”</p>	<p>Definition of audiovisual media service (new art. 1(1))</p> <p>1. For the purposes of this Directive:</p> <p>“(a) ‘audiovisual media service’ means:</p> <p>(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;”</p> <p>New: “(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:</p> <p>(i) the service consists of the storage of a large amount of programmes or user-generated videos, for which the video-sharing platform provider does not have editorial responsibility;</p> <p>(ii) the organisation of the stored content is determined by the provider of the service including by automatic means or algorithms, in particular by hosting, displaying, tagging and sequencing;</p> <p>(iii) the principal purpose of the service or a dissociable section thereof is devoted to providing programmes and user-generated videos to the general public, in order to inform, entertain or educate;</p> <p>(iv) the service is made available by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC.”</p>

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<p>Material scope of application (art. 1(1)(a):</p> <ul style="list-style-type: none"> — Television broadcasting services — On-demand video services 	<p>Extension of the material scope of application (art. 1(1)(a) and (aa) and new Chapter IX):</p> <p>Television broadcasting services</p> <p>On-demand video services (independent or dissociable from other non-audiovisual services)</p> <p>Video-sharing platforms (for certain purposes)</p> <p>" CHAPTER IXa</p> <p>PROVISIONS APPLICABLE TO VIDEO-SHARING PLATFORM SERVICES</p> <p><i>Article 28a"</i></p>
<p>Geographical scope: establishment in a Member State: head office or where <i>significant part</i> of the workforce operates or in the Member State where it first began its activity (art. 2(3)(b) Directive 2010/13)</p> <p>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:</p> <p>...</p> <p>"(b) if a media service provider has its head office in one Member State but editorial decisions on the audiovisual media service are taken in another Member State, it shall be deemed to be established in the Member State where a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates. If a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in each of those Member States, the media service provider shall be deemed to be established in the Member State where it has its head office. If a significant part of the workforce involved in the pursuit of the audiovisual media service activity operates in neither of those Member States, the media service provider shall be deemed to be established in the Member State where it first began its activity in accordance with the law of that Member State, provided that it maintains a stable and effective link with the economy of that Member State;"</p>	<p>Geographical scope: establishment in a Member State: head office or where the <i>majority of the workforce</i> operates (art. 2(3)(b)); platforms with subsidiaries established in an EU Member State (art. 28b)</p> <p>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:</p> <p>...</p> <p>"(b) if a media service provider has its head office in one Member State but editorial decisions on the audiovisual media service are taken in another Member State, it shall be deemed to be established in the Member State where the majority of the workforce involved in the pursuit of the audiovisual media service activity operates;"</p> <p><i>New article 28b</i></p> <p>"1. Member States shall ensure that video-sharing platform providers which are not established on their 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 deemed to have been established on their territory for the purposes of Article 3(1) of Directive 2000/31/EEC.</p>

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	<p>For the purposes of applying the first subparagraph, where the parent company, the subsidiary or the other entity of the group are each established in different Member States, the provider shall be deemed to have been established in the Member State where its parent company is established or, in the absence of such an establishment in a Member State, where its subsidiary is established or, in the absence of such an establishment in a Member State, where the other entity of the group is established.</p> <p>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."</p>
<p>Restrictions on cross-border transmissions (art. 3):</p> <p><i>"Article 3</i></p> <ol style="list-style-type: none"> 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. <i>In respect of television broadcasting</i>, Member States may provisionally derogate from paragraph 1 if the following conditions are fulfilled: <ol style="list-style-type: none"> (a) a television broadcast coming from another Member State manifestly, seriously and gravely infringes Article 27(1) or (2) and/or Article 6; (b) during the previous 12 months, the broadcaster has infringed the provision(s) referred to in point (a) on at least two prior occasions; (c) the Member State concerned has notified the broadcaster and the Commission in writing of the alleged infringements and of the measures it intends to take should any such infringement occur again; 	<p>Restrictions on cross-border transmissions (new art. 3)</p> <p><i>"Article 3</i></p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> (a) manifestly, seriously and gravely infringes Articles 6 or 12, or both; (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.

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	<p>3. Member States may only apply paragraph 2 where the following conditions are met:</p> <ul style="list-style-type: none"> (a) during the 12 months preceding the notification referred to in point (b) of this paragraph, the media service provider has, in the opinion of the Member State concerned, contravened point (a), (b) or (c) of paragraph 2 on at least 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 contraventions and of the measures it intends to take should any such alleged contraventions 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 media services provider has contravened 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 and, in particular, has given the media services provider the opportunity to express its views on the alleged contraventions and the measures that that Member State intends to take. It shall duly take into account those views as well as the views of the Member State of jurisdiction. <p>Points (a) and (d) of paragraph 3 shall apply only in respect of linear services.</p> <p>4. The Commission shall, within three months following the notification of the measures taken by the Member State in application of paragraphs 2 and 3 and after having consulted ERGA, take a decision on whether those measures are compatible with Union law. That period shall begin on the day following the receipt of a complete notification. The notification shall be considered as complete if, within three months from its receipt, or from the receipt of any additional information requested, the Commission does not request any further information.</p>

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	<p>Where the Commission considers the notification as incomplete, it shall request all necessary additional information. The Commission shall inform the Member State of the receipt of the response to that request.</p> <p>5. Paragraphs 3 and 4 shall be without prejudice to the application of any procedure, remedy or sanction to the contraventions in question in the Member State which has jurisdiction over the media service provider concerned.</p> <p>6. Member States may, in urgent cases, derogate from the conditions laid down in points (b) and (c) of paragraph 3. Where this is the case, the measures shall be notified in the shortest possible time to 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.</p> <p>7. Without prejudice to the Member State's possibility of proceeding with the measures referred to in paragraph 6, 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 the measures are incompatible with Union law, the Commission shall require the Member State concerned to refrain from taking any intended measures or urgently to put an end to those measures.</p> <p>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."</p>
<p>Exemption from liability of information society service providers and non-requirement to monitor content hosted by them (arts. 14 and 15 of the e-Commerce Directive 2000/31/EC)</p>	<p>Exemption from liability of information society service providers and non-requirement to monitor content hosted by them (arts. 14 and 15 of the e-Commerce Directive), but Member States may require platforms sharing user-generated videos to take 'appropriate measures' to protect minors and citizens as a whole from content containing incitement to violence or hatred directed against a group of persons (new art. 28a)</p> <p>"CHAPTER IXa</p> <p>PROVISIONS APPLICABLE TO VIDEO-SHARING PLATFORM SERVICES</p> <p><i>Article 28a</i></p>

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	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> (a) protect minors from content which may impair their physical, mental or moral development; (b) protect all citizens from content containing incitement to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex, race, colour, religion, descent or national or ethnic origin. 2. What constitutes an appropriate measure for the purposes of paragraph 1 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. <p>Those measures shall consist of, as appropriate:</p> <ol style="list-style-type: none"> (a) defining and applying in the terms and conditions of the video-sharing platform providers the concepts of incitement to violence or hatred as referred to in point (b) of paragraph 1 and of content which may impair the physical, mental or moral development of minors, in accordance with Articles 6 and 12 respectively; (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 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;

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	<p>(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)."</p>
<p>Protection of minors (art. 27): only in television broadcasting; time limits; when harmful content unencoded, acoustic and visual warning.</p> <p>CHAPTER VIII</p> <p>Protection of minors in television broadcasting (art. 27)</p> <p>"1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.</p> <p>2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.</p> <p>3. In addition, when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration."</p>	<p>Protection of minors (new art. 6a, 12 and 28a): all audiovisual services; information about content; time limits; encryption of most harmful content.</p> <p><i>New article 6a</i></p> <p>"1. Member States shall ensure that audiovisual media service providers provide sufficient information to viewers about content which may impair the physical, mental or moral development of minors. For this purpose, Member States may use a system of descriptors indicating the nature of the content of an audiovisual media service.</p> <p>2. For the implementation of this Article, Member States shall encourage co-regulation.</p> <p>3. The Commission and ERGA shall encourage media service providers to exchange best practices on co-regulatory systems across the Union. Where appropriate, the Commission shall facilitate the development of Union codes of conduct."</p> <p>Article 12 is replaced by the following and moved to Chapter III (provisions applicable to all audiovisual media services):</p> <p><i>"Article 12</i></p> <p>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.</p> <p>The most harmful content, such as gratuitous violence and pornography, shall be subject to the strictest measures, such as encryption and effective parental controls."</p>

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<p>Broadcast advertising: 12 minutes per hour from 7:00 to 23:00 (art. 23) and rules on interruptions (art. 20)</p> <p><i>"Article 23</i></p> <ol style="list-style-type: none"> 1. The proportion of television advertising spots and teleshopping spots within a given clock hour shall not exceed 20 %. 2. Paragraph 1 shall not apply to announcements made by the broadcaster in connection with its own programmes and ancillary products directly derived from those programmes, sponsorship announcements and product placements." <p><i>Article 20</i></p> <p>"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."</p> 	<p>Broadcast advertising: flexible scheduling, 20% of programming (new art. 23) and new rules on interruptions (art. 20(2))</p> <p><i>"Article 23</i></p> <ol style="list-style-type: none"> 1. The daily proportion of television advertising spots and teleshopping spots within the period between 7:00 and 23:00 shall not exceed 20%. 2. Paragraph 1 shall not apply to: <ol style="list-style-type: none"> (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. <p>In Article 20, paragraph 2, the first sentence is replaced by the following:</p> <p>"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 20 minutes."</p>
<p>Product placement (prohibited with some exceptions, art. 11)</p> <p><i>"Article 11</i></p> <ol style="list-style-type: none"> 1. Paragraphs 2, 3 and 4 shall apply only to programmes produced after 19 December 2009. 2. Product placement shall be prohibited. 3. By way of derogation from paragraph 2, product placement shall be admissible in the following cases unless a Member State decides otherwise: <ol style="list-style-type: none"> (a) in cinematographic works, films and series made for audiovisual media services, sports programmes and light entertainment programmes; (b) where there is no payment but only the provision of certain goods or services free of charge, such as production props and prizes, with a view to their inclusion in a programme. 	<p>Product placement (prohibited with some exceptions, new art.11)</p> <p><i>"Article 11</i></p> <ol style="list-style-type: none"> 1. Paragraphs 2, 3 and 4 shall apply only to programmes produced after 19 December 2009. 2. Product placement shall be admissible in all audiovisual media services, except in news and current affairs programmes, consumer affairs programmes, religious programmes and programmes with a significant children's audience. 3. Programmes that contain product placement shall meet the following requirements: <ol style="list-style-type: none"> (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;

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<p>The derogation provided for in point (a) shall not apply to children's programmes.</p> <p>Programmes that contain product placement shall meet at least all of the following requirements:</p> <ul style="list-style-type: none"> (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; (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; (c) they shall not give undue prominence to the product in question; (d) viewers shall be clearly informed of the existence of product placement. 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. <p>By way of exception, Member States may choose to waive the requirements set out in point (d) provided that the programme in question has neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider.</p> <p>4. In any event programmes shall not contain product placement of:</p> <ul style="list-style-type: none"> (a) tobacco products or cigarettes 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." 	<ul style="list-style-type: none"> (b) they shall not directly encourage the purchase or rental of goods or services; (c) viewers shall be clearly informed of the existence of product placement. 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. <p>By way of exception, Member States may choose to waive the requirements set out in point (c) provided that the programme concerned has neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider.</p> <p>4. In any event programmes shall not contain product placement of:</p> <ul style="list-style-type: none"> (a) tobacco products or cigarettes 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."

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<p>Rules protecting European productions (art. 13 Directive 2010/13)</p> <p><i>"Article 13</i></p> <ol style="list-style-type: none"> 1. Member States shall ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, inter alia, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue of programmes offered by the on-demand audiovisual media service. 2. Member States shall report to the Commission no later than 19 December 2011 and every 4 years thereafter on the implementation of paragraph 1. 3. 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 paragraph 1, taking into account the market and technological developments and the objective of cultural diversity." 	<p>Rules protecting European productions (new art. 13)</p> <p><i>"Article 13</i></p> <ol style="list-style-type: none"> 1. Member States shall ensure that providers of on-demand audiovisual media services under their jurisdiction secure at least a 20% share of European works in their catalogue and ensure prominence of these works. 2. Member States may require providers of on-demand audiovisual media services under their jurisdiction to contribute financially to the production of European works, including via direct investment in content and contributions to national funds. Member States may require providers of on-demand audiovisual media services, 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 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. 3. Member States shall report to the Commission by <i>[date – no later than three years after adoption]</i> 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 and 2, 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 2 for providers with a low turnover or low audience or if they are small and micro enterprises. 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 on-demand audiovisual media services."

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<p>Independent regulatory bodies (art. 30)</p> <p>CHAPTER XI</p> <p>Cooperation between regulatory bodies of the Member States</p> <p><i>"Article 30</i></p> <p>Member States shall 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, in particular through their competent independent regulatory bodies."</p>	<p>Greater relevance of independent regulatory bodies (new arts. 30 and 30a)</p> <p>The title of Chapter XI is replaced by the following:</p> <p>"REGULATORY AUTHORITIES OF THE MEMBER STATES"</p> <p>Article 30 is replaced by the following:</p> <p><i>"Article 30</i></p> <ol style="list-style-type: none"> 1. Each Member State shall designate one or more independent national regulatory authorities. Member States shall ensure that they are legally distinct 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. 2. Member States shall ensure that national regulatory authorities exercise their powers impartially and transparently and in accordance with the objectives of this Directive, in particular media pluralism, cultural diversity, consumer protection, internal market and the promotion of fair competition. <p>National regulatory authorities 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.</p> <ol style="list-style-type: none"> 3. The competences and powers of the independent regulatory authorities, as well as the ways of making them accountable shall be clearly defined in law. 4. Member States shall ensure that national regulatory authorities have adequate enforcement powers to carry out their functions effectively. 5. The Head of a national regulatory authority or the members of the collegiate body fulfilling that function within a national regulatory authority, 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 and a statement of reasons shall be made available.

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	<p>6. Member States shall ensure that independent national regulatory authorities have separate annual budgets. The budgets shall be made public. Member States shall also ensure that national regulatory authorities have adequate financial and human resources to enable them to carry out the task assigned to them and to actively participate in and contribute to ERGA.</p> <p>7. Member States shall ensure that effective mechanisms exist at national level under which any user or media services provider or video-sharing platform provider who is affected by a decision of a national regulatory authority has the right of appeal against the decision to an appeal body. The appeal body shall be independent of the parties involved in the appeal.</p> <p>That appeal body, which should be a court, shall have the appropriate expertise to enable it to carry out its functions effectively. Member States shall ensure that the merits of the case are duly taken into account and that there is an effective appeal mechanism.</p> <p>Pending the outcome of the appeal, the decision of the national regulatory authority shall stand, unless interim measures are granted in accordance with national law.”</p> <p><i>“Article 30a</i></p> <ol style="list-style-type: none"> 1. The European Regulators Group for Audiovisual Media Services (ERGA) is hereby established. 2. It shall be composed of national independent regulatory authorities in the field of audiovisual media services. They shall be represented by the heads or by nominated high level representatives of the national regulatory authority with primary responsibility for overseeing audiovisual media services, or in cases where there is no national regulatory authority, by other representatives as chosen through their procedures. A Commission representative shall participate in the group meetings. 3. ERGA’s shall have the following tasks: <ol style="list-style-type: none"> (a) to advise and assist the Commission in its work to ensure a consistent implementation in all Member States of the regulatory framework for audiovisual media services;

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	<p>(b) to advise and assist the Commission as to any matter related to audiovisual media services within the Commission's competence. If justified in order to advise the Commission on certain issues, the group may consult market participants, consumers and end-users in order to collect the necessary information;</p> <p>(c) to provide for an exchange of experience and good practice as to the application of the regulatory framework for audiovisual media services;</p> <p>(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;</p> <p>(e) to give opinions, when requested by the Commission, on the issues envisaged in Articles 2(5b), 6a(3), 9(2), 9(4) and on any matter relating to audiovisual media services, in particular on the protection of minors and incitement to hatred.</p> <p>4. The Commission shall be empowered to adopt, by means of an implementing act, the rules of procedure for ERGA."</p>

For further information please visit our website at www.gomezacebo-pombo.com or send us an e-mail to: info@gomezacebo-pombo.com.

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