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DIGITALEUROPE concerns regarding audiovisual media policy

Executive summary

DIGITALEUROPE has closely followed the developments of the Audiovisual Media Service Directive since its establishment as well as the Media Freedom Act. With the aim of guaranteeing a harmonised framework of rules for audiovisual products and services, we hereby wish to notify potential risks for fragmentation of the internal market.

Key messages

▶▶ Differing national transpositions of EU law should be avoided to **prevent regulatory fragmentation and barriers to the free movement of goods and services** in the internal market.

▶▶ DIGITALEUROPE supports the creation of a **legal framework that ensures the harmonized application** of media law across the EU.

▶▶ **Technological preconditions to fulfil the regulatory requirements** (e.g. standards) must be assessed before regulations are implemented.

▶▶ **Ensure coherent application of the legal framework** to avoid divergent implementation and enforcement by regulatory bodies.

1. Preventing fragmentation of the Internal Market

DIGITALEUROPE believes in the benefits of a Single Market for goods for EU businesses and citizens alike. A strong internal market based on the EU fundamental freedoms safeguards innovation and accelerates technological developments.

It is only right that the European Commission has set itself the goal of preventing further fragmentation of the internal market.

DIGITALEUROPE welcomed the Audiovisual Media Services Directive (AVMSD) since it aimed at harmonising European media policy. Consistent European rules

strengthen the Single Market by ensuring predictability and reliability, which are crucial for our members' business activities.

However, Member States increasingly undermine the country-of-origin principles of the AVMSD, leading to fragmentation of the single market and operational burdens for cross-border services. Diverging concepts to safeguard media pluralism combined with the above deviations from infringements of the country-of-origin principle can make it impossible to provide pan-EU media services (and as a result reduce pluralism), if providers are forced to adapt their user interfaces to the prominence rules in each Member State.

The AVMSD's scope for implementation has been stretched to such an extent that Member States (e.g. Germany and France) have introduced or are in the process of introducing (e.g. Italy) user interface regulation (based on Art. 7a AVMSD) that would require substantial adaptation of software -- or even hardware in the case of remote controls -- specifically for these markets.

These measures apply a country of destination approach, which raises not only operational costs and expenses in product development for our members, but also results significantly in hindering the freedom of the cross-border provisions of goods (Smart TV & other devices) and services (audiovisual) in the internal market.

2. Towards more harmonised application of media law

We, therefore, are in favour of the creation of a legal framework that ensures the harmonized application of media law across the EU instead of differing national transpositions that create regulatory fragmentation and barriers to the free movement of goods and services in the internal market.

As it is unclear if a new media regulation on the EU level can provide for this, we suggest preventing legal fragmentation and undue burdens for cross-border device manufacturers, service providers and media companies, by improving the functioning of the internal media market and better enforcement of the country-of-origin principle.

In order to prevent legal fragmentation, contradiction and conflicting regulations, any new legislation must be evidence-based and intended to improve the functioning of the internal media market.

Therefore, rules to foster media pluralism (e.g. public value, prominence) on the Member State level should be limited to measures that do not result in fragmenting the single market.

DIGITALEUROPE advocates for coordination of enforcement on the European level which leaves no room for divergent and excessive implementation. To avoid compliance burdens for cross-border service and goods providers, it is necessary to ensure a coherent and uniform application of EU legislation. For DIGITALEUROPE it is important that on the EU level a uniform application is ensured and can be enforced.

3. Technical feasible implementation

The implementation of media regulation must be technically feasible. Technological preconditions to fulfil the regulatory requirements like standardised signalling or labelling (e.g. as general interest for prominence regulation) must be tackled before any regulation can be enforced.

Moreover, the implementation must remain proportionate. The implementation must not lead to the burden of a specific product. Rules that intervene in the hardware of certain products impose an obvious unreasonable additional burden. Local adaptations of software should be limited to what is necessary for the user to find and access local services. As a matter of fact, user interfaces provided by smart TV manufacturers already allow this today.

FOR MORE INFORMATION, PLEASE CONTACT:

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About DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

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Belgium: AGORIA
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Czech Republic: AAVIT
Denmark: DI Digital, IT BRANCHEN, Dansk Erhverv
Estonia: ITL
Finland: TIF
France: AFNUM, SECIMAVI, numeum

Germany: bitkom, ZVEI
Greece: SEPE
Hungary: IVSZ
Ireland: Technology Ireland
Italy: Anitec-Assinform
Lithuania: Infobalt
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Netherlands: NLdigital, FIAR
Norway: Abelia
Poland: KIGEIT, PIIT, ZIPSEE
Portugal: AGEFE

Romania: ANIS
Slovakia: ITAS
Slovenia: ICT Association of Slovenia at CCIS
Spain: Adigital, AMETIC
Sweden: TechSverige, Teknikföretagen
Switzerland: SWICO
Turkey: Digital Turkey Platform, ECID
Ukraine: IT Ukraine
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