

## Content, Independence & Plurality: Audiovisual Media Foundations for the Next EC



The European Commission is laying the groundwork for a complete revision of the regulatory regime for European TV, following its **consultation on preparing for a fully converged world**. With European elections scheduled for May we have run out of time for action under this Commission, but there are now strong indications that there will be a revision of the Audiovisual Media Services Directive after EU elections in May, and at a **conference on European media policy** today Lorena Boix-Alonso set out the Commission's objectives. Apart from a call to protect the Country of Origin Principle whereby audio-visual media

service providers only have to respect the rules of the country where they originate, it seems everything is on the table.

The EC can be expected to push for further single market reforms. Clearly the current settlement can be improved upon. The European content sectors are suffering in terms of a lack investment in original content. And you could ask whether the EU is working for the UK. The biggest export market for UK TV and formats is the US, and at £475 million<sup>[1]</sup> it is worth far more than the combined export market of the EU. On the other hand, UK exporters may have had even less penetration in the rest of the EU and beyond without quotas and subsidies under the current AVMS Directive. But could more be done?

There does appear to be a new spirit of openness to approaches based on values and rights in the EC. The **High Level Group** on Media Freedom and Pluralism and **recent recommendations** on independence of media regulators are one aspect of this. At a national level there has always been a sensitivity about the 'special' nature of media policy because of the role of the media in a democracy. The EC has recognised this, but in a few areas we can expect discussions about increasing EU involvement.

**The scope of self and co-regulation:** Might the UK's approach of implementing AVMS through co-regulation work elsewhere in Europe? A lot depends on what, precisely, those bodies are prepared to do. The **Authority for Television on Demand** (ATVOD) last November for the first time used its power to prevent a video on demand provider providing services. If such decisions are to be taken by such bodies, a clear legislative basis and rights of appeal must be set down, as it is for ATVOD. If ATVOD works in the UK it is not *necessarily* the case that a similar system could work in other countries, where market conditions and incentives differ.

**Independence of Regulatory Authorities:** This really matters. When an EU member state changes the law to capture a media regulator, people all over Europe rightly ask what can be done. Unfortunately in the current framework not a lot, but that might change. Based on a recommendation from the European Council, the Commission **recently launched** a European Audiovisual Regulators Group to advise it on policy making, but also to help strengthen the independence of these regulators from their national governments. Is this setting the stage for revisions to AVMSD to include measures on regulatory independence or even more institutionalized European regulatory co-operation as there is for telecommunications in the form of BEREC?

**Public Service Broadcasting:** In member states with commitments to growing and developing the role for PSBs, the question of whether any 'converged' framework will offer Room to manoeuvre at the Member-State level will be crucial. The UK government is consulting on a new

framework to create new mechanisms to encourage ‘findability’ for ‘General Interest Content’ such as PSB. A revised AVMS needs to facilitate not frustrate such efforts.

**Media Freedom and Pluralism:** Evidence for a more ‘activist’ EC in media policy has been the establishment of the High Level Group on media Freedom and Pluralism. The origins of this were pressure for the Commission to act in Hungary, and the recognition that there is not a great deal of legal basis for Commission action – either on media pluralism or on the independence of regulatory authorities. The Commission recently initiated the pilot phase of the **Media Pluralism Monitor**, which ideally will have some initial data to share with the incoming Commissioners and European Parliamentarians.

The issue of independence of regulatory authorities is of course not something that is an issue only elsewhere in Europe. As the *Independent on Sunday* reported last week, the Draft Public Bodies (Modification of Functions of Ofcom) Order 2013, which would place Ofcom’s current statutory obligations to review public service broadcasting at the discretion of the Secretary of State, may be disputed in Parliament by those who see the importance of separating the functions of communications regulators from political discretion. As it stands it is unlikely that proposed reforms to Ofcom’s duties to review public service broadcasting would fall foul of a revised Article 30 of the Audiovisual Media Services Directive. However, it seems that Lords Stevenson and Inglewood who are leading the charge against this move in the UK would find supporters in Brussels and their cause might provide fuel for stronger language on independence in the next version of AVMSD.

Recent struggles in the UK to deal with concentrated media power and find ways to ensure media pluralism will also have to interact with whatever action the new commission initiates on media pluralism and the findings of the Monitor. Cosy relationships between regulators, governments and powerful media groups do need to be broken up throughout Europe. The UK audio-visual industry should get behind the EC when they attempt to do this.

*This post is based on remarks given by the author at the Westminster Media Forum event “European media policy – preparing for the converged landscape” held on 12 February, 2014. It gives the views of the author, and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics*

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[1] [http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr13/icmr/ICMR\\_2013\\_final.pdf](http://stakeholders.ofcom.org.uk/binaries/research/cmr/cmr13/icmr/ICMR_2013_final.pdf) fig. 3.12

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