



# Policy Statement

## **Cable Europe statement on the European Parliament position on the Audiovisual Media Services Directive (AVMSD)**

Following the mandate given by the European Parliament to its Culture committee to begin talks with the Council on the AVMS directive, Cable Europe highlights the following points.

The cable industry has for many years delivered for consumers a TV environment which is both trusted and innovative. The European Parliament should not destabilise this environment with policy decisions that will make it more difficult for cable operators to deliver competitive, innovative services in the audiovisual sphere and to deliver rewarding viewing experiences to consumers. This is especially critical at a moment in time when consumers increasingly look to internet platforms to access television and video.

Certain choices made by Parliament are not based on the European Commission assessment of the European audiovisual market but are a clear effort to expand the bounds of the EU legislator's competence.

Cable Europe has been a longtime advocate of empowering viewers with more options for choosing what to watch on TV. Our members have been delivering this through continuous innovation and diversity of new content offerings. New regulation risks hindering the development of new functionalities that consumers want and is ultimately detrimental to consumers themselves.

### **Discoverability of content of general interest on user interfaces (article 7a new)**

Cable Europe members are concerned with Parliament's decision to strengthen the wording of recital 38 of the Commission's proposal on discoverability and accessibility of content of general interest, and to add a corresponding article in the body of the directive requiring prominence rather than discoverability.

Cable Europe members fully endorse the goals of media pluralism, freedom of speech and cultural diversity and believe that the way the sector has developed in the past decade has created an environment which supports these goals. However, we strongly object to any type of rules seeking to protect the market position of specific content providers, discriminating against content that is not granted preferred visibility, reducing diversity in audiovisual markets and massively interfering with the way content is viewed.



We consider that viewers are best placed to choose themselves the content they want to watch and that there is no need for addressing content discoverability or prominence. With the emergence of new distribution channels and the proliferation of audiovisual content, the added value of such a provision is questionable - in particular as prominence of specific content also means discrimination of other content. This will inevitably erode media pluralism.

A ‘prominence’ requirement in a new article, as chosen by the EP, could lead to the worrying consequence that, on every user interface and within every functionality (e.g. guides, search functions), general interest content would always be more prominently shown than any other type of content. Even in the absence of such a provision, Member States would still be able to address this issue in national laws.

However, if any language on this issue is to survive in a revised AVMS Directive, Cable Europe members would prefer recital 38 of the Commission’s proposal as ‘discoverability’ would legitimately ensure that content of general interest is not deliberately hidden or ignored within recommendations or search engines.

#### **Integrity of programmes and services (article 7b new)**

Cable Europe members do not support a new provision in the Parliament’s text that would require the explicit consent of the media service provider for scaling or overlaying a programme showed on a screen. Under such provision, broadcasters could refuse to consent to recommendations for additional channels thereby creating an experience of “silos of content”.

Our members agree that the integrity of programmes should not be disrupted by commercial advertising without the consent of the media service provider. Certain practices, such as inserting advertisements over a programme that is subject to advertising restrictions or to replace the original advertisement authorised by the broadcaster are already prohibited under unfair competition rules in some Member States.

However, we consider that other type of functionalities, such as programme information, search or recommendation overlays, which would help viewers to navigate as well as allow them to find specific content they want to watch, should not be hampered by burdensome regulation.

Evidence-based policy would suggest leaving this requirement outside the final AVMSD text as this issue has not been impact-assessed.



### **Financing European content**

Our members are mindful of the importance of a vibrant European content market. Some of our members invest in content or hold stakes in broadcasters. In addition, as distributors, they all remunerate authors for the retransmission of their creative works, including broadcasters when they license their own rights or the rights that have been transferred to them. In view of this track record, we believe that the fairest and most effective measures to support the production and distribution of European content are those based on tax incentives coupled with the possibility for on-demand service providers to choose between quotas, direct investment or financing dedicated film funds.

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### **About Cable Europe**

Cable Europe is the trade association that connects leading broadband cable TV operators and their national trade associations throughout the European Union. The regulatory and public policy activities of Cable Europe aim to promote and defend the industry's policies and business interests at European and international level. The European cable industry provides high speed broadband internet, TV services, and telephony into the home of 64.5 million customers the European Union.

*This paper represents the views of the full members of Cable Europe, and not necessarily those of our associate members, partners or affiliates.*