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Oslo, 19. august 2016

HØRING – EU-KOMMISSJONENS FORSLAG TIL ENDRINGER I DIREKTIVET OM AUDIOVISUELLE MEDIETJENESTER (AMT-DIREKTIVET)

Det vises til departementets høringsbrev av 29. juni d.å. hvor det bes om eventuelle merknader innen 19. august d.å. til Kommisjonens forslag av 25. mai d.å.

TV 2 vil i denne forbindelse trekke frem to forhold som vi mener er særdeles viktige:

- 1) TV 2 henstiller til departementet om å gi full støtte til den foreslåtte oppmyking av bestemmelsen om tillatt reklamemengde (artikkel 23), slik at reklamemengden ikke lenger begrenses time for time, men for hele perioden mellom kl 07.00 og kl 23.00. Den foreslåtte bestemmelse gjør det dessuten klart at egenannonsering, sponsoridentifikasjoner og produktplassering ikke skal telle med i tillatt reklamemengde, hvilket er en nyttig avklaring.

TV 2 mener prinsipielt at det ikke burde være noen begrensninger m.h.t. tillatt reklamemengde overhodet, idet dette mest effektivt vil bli regulert av markedet. Dermed ville det også være full likhet mellom tv-mediet og andre medier.

- 2) TV 2 har registrert de foreslåtte endringer m.h.t. tiltak for å fremme europeiske produksjoner, men er av den oppfatning at disse på ingen måte er tilfredsstillende for etablerte kringkastere. TV 2 mener at eksisterende regler om kvoter for europeiske produksjoner må oppheves, eventuelt mykes opp slik at de ikke pålegger medlemslandene å fatte regler som i praksis ikke lar seg

etterleve. Det er i denne forbindelse nok å vise til at TV 2 gjennom en årrekke ikke har klart å etterleve kravet om 50 % europeisk produksjon for de fleste av sine nisjekanaler. Vi mener dessuten at kvotebestemmelsene er i strid med redaktørens suverene rett til å bestemme hva som skal sendes, jf. lov om redaksjonell fridom i media. Forslagene om å innføre en 20 %-kvote for europeiske produksjoner i katalogene til ikke-lineære tjenestetilbydere og forslaget om at slike ikke-lineære tjenestetilbydere skal kunne pålegges å yte økonomiske bidrag til nyproduksjon, bidrar til en noe bedre balanse mellom de krav som stilles til lineære og ikke-lineære tilbydere, men er i seg selv ikke tilstrekkelige til å løse det akutte problem som dagens rigide kvoter har skapt.

TV 2 vil til slutt nok en gang gi uttrykk for to avgjørende grunnprinsipper som EU-direktivet bør baseres på:

- Direktivet bør sørge for at medlemslandenes lovgivning *harmoniseres i størst mulig grad, slik at færrest mulig konkurransevriddinger oppstår som følge av ulike regler i de enkelte jurisdiksjoner*. Dette taler for at det i minst mulig grad blir gitt adgang for medlemslandene til å vedta «strengere» eller mer omfattende regler enn det som følger av direktivet.
- Direktivet bør dessuten sørge for at reguleringen av ulike tjenester (lineære og ikke-lineære) og plattformer blir mest mulig ensartet og at de samme krav stilles til alle. I den grad man av prinsipielle eller praktiske grunner ikke finner å kunne pålegge «nye» tjenestetilbydere eller –typer de samme krav som kringkastere tidligere har blitt pålagt, bør utgangspunktet være at reguleringen av den tradisjonelle kringkasting nedskaleres til nivået for nye tjenestetyper/-tilbydere.

TV 2 har under revisjonsarbeidet avgitt høringsuttalelse direkte til Kommisjonen («public consultation» av 30. september 2015) og dessuten sluttet seg til et «position paper» fra Bonnier Broadcasting som ble formidlet til Kommisjonen i mai/juni d.å. Vi vedlegger en kopi av det sistnevnte dokumentet.

Med vennlig hilsen
For TV 2 AS



Jan Holland

Review of the Audiovisual Media Services Directive Position by Bonnier Broadcasting

Bonnier Broadcasting is a Nordic based broadcasting group comprising the major Swedish and Finnish commercial broadcasters TV4, MTV and Cmore and news producers Nyhetsbolaget and MediaHub. Our ambition is to bring the best Nordic content to the consumers via the most up to date technology and solid and sustainable financial solutions, fully apt for the modern digital world.

The Nordic media market

The Nordic market is on the absolute digital frontline with high saturation of consumer use of online solutions and products. Consumption of web based television is on a steady increase. The broadband take-up is among the highest in Europe and the use of smart devices such as phones and tablets is a natural part of our everyday life in all age groups. The Nordic population is also very much at ease with taking part of English speaking content. Thus competition from global companies is an ever present challenge.

The current rules on the AVMS Directive stem from a time where linear viewing was the norm and the main competitors were national broadcasters. Now the market has changed completely and we need a regulatory framework taking global competition into account, while sustaining the possibility for local players to invest in highly popular local content. Our services need to be able to compete on the same terms with international players that use economics of scale to their advantage. Our main objective is to continue offering our consumers high-quality content and pluralistic perspectives of news and current affairs.

Main objective for the review

The main objective of the review should be to create a technology-neutral regulatory framework for professionally created audiovisual media services. The future framework should not differentiate between linear and non-linear services. Rather it should place all services offering audiovisual content under the same set of principles.

Bonnier Broadcasting is of the opinion that sector specific regulation for different sorts of media is outdated. Therefore we call for simplification and deregulation of the AVMS rules for linear content. Deregulation is important in order to continue to be able to invest in high-quality local content and services. Only deregulation will allow us to achieve a level-playing field with global competitors. Extending the scope would slow down and hamper the development of our new digital services and it would not serve the goals of the European digital single market.

We call on the European Commission to consider how best to safeguard a pluralistic European media environment through a regulatory framework that would be fit for purpose still in 2025.

The main principles of the regulatory framework

As a responsible media company Bonnier Broadcasting believes in key principles for a healthy media culture. These principle are also reflected in the AVMS Directive, of which the most important are, freedom of expression and information, media pluralism, country of origin principle, editorial responsibility, protection of minors and right of reply.

We are of the opinion that the current rules on commercial communications need to be profoundly deregulated with no specific rules for linear broadcasting. The most important qualitative rules such as the principle of separation and identification of commercial communications are already covered by the Directive on Unfair Commercial Practice. Sector specific rules on commercial communications create an imbalance between different media sectors.

Moreover, Bonnier Broadcasting does not see a future need for programme quotas as the market caters well for local and European content due to viewer demand. We believe that any type of quotas restrict both freedom of expression, freedom of trade and editorial freedom to offer content to customers.

Commercial Communications

As mentioned above we are of the opinion that all rules on commercial communications could be regulated by a general framework such as the Unfair Commercial Practices Directive, which applies to all players in the market. If however, the Commission sees a strong need to keep some sector specific rules on commercial communications in the Directive, these should be based on the qualitative rules in Article 9 of the Directive.

Flexibility in the rules of minutage and placement would increase the advertising income of Bonnier Broadcasting by roughly 20 MEUR yearly. This would enable growth in investment in local content such as local drama and news.

If the Commission will retain rules on commercial communications in the Directive, we call for the following changes:

1. All rules on advertising should be centered in one article, focusing on the main principle of identification, based on the current Article 9 of the Directive.
2. Sponsorship and product placement should be allowed in all programmes except for news. The only necessary requirement should be that sponsorship and product placement is identified at the beginning of the programme.
3. As linear viewing is decreasing and online consumption is increasing we believe that the insertion rules in Article 20 are outdated. We therefore call for the deletion of the 30 minute rule for films, news and children's programmes as these rules put linear advertising in a disadvantaged position to other forms of advertising. Additionally, in today's online world with short formats, clips and start overs insertion rules do not work .
4. In order to compete with global online players and to retain the value of television advertising we call for more flexibility for the current limit of linear advertising. The hourly limit in Article 23 should be changed to a daily limit, which would allow for more flexibility for different genres and times of the day, while taking into account viewers' best interest.