

Brussels, 11 April 2018

Dear Member of the Audiovisual Working Party,

In light of the final stages of the trilogue negotiations on the revision of the Directive on Audiovisual Media Services ("AVMS Directive") we hereby wish to address some of the issues that are currently under consideration.

The press publishing sector in Europe has fully embraced the digital revolution by increasing investment in digital technologies and innovative products. As a result, consumers can today access professional journalistic content at any time on all devices and digital platforms. Meanwhile, the audiovisual content found on publishers' websites is essentially limited to videos complementing written press articles for the vast majority of publishers.

For this reason, it is important to underline that the press sector in Europe, in all its forms, cannot be regulated in the same way as TV broadcasting and other audiovisual services whose regulation is based on state licensing and prior authorisation, stricter rules on commercial communications, and on stringent a priori control over content. We therefore welcome the fact that the principle of the 'principal purpose' will remain an intangible element of the definition of audiovisual media services. This approach constitutes the foundation of press freedom on digital platforms.

The question is whether the 'principal purpose' of a service is to provide audiovisual content should require a case by case assessment of the nature of the service. However, the European Commission's proposal seems to suggest that the application of the Directive should depend on the architecture of a press website at a specific time. We however believe that it should be clarified that audiovisual content published on press websites are excluded from the scope of AVMSD as the principle purpose of the service is to provide written news articles (therefore video archives that serve no other purpose than to store old videos should also be excluded from the scope)

Also, while both a slow erosion of print readership and growth of online audiences of the press can be observed, press publishers significantly rely on advertising revenues in order to invest in journalistic content. The liberalisation of advertising rules in the Directive will therefore have a great impact on press publishers' business, especially in a context of sharp competition with few dominant online services and while all available figures demonstrate that traditional televisual broadcasting maintains the highest share of advertising revenue across all traditional media.

We are very concerned, that liberalisation of isolated advertising spots might deepen the unbalance in the advertising market and therefore pose a threat to media diversity. Regrettably, the Parliament supports a less restrictive solution regarding isolated spots and we believe that any compromise that may be reached should not be at the expense of the press sector. In this respect, EMMA and ENPA stand for the Commission and Council joint approach on article 19, according to which "isolated advertising spots shall remain the exception", as it is already the

case in the current Directive. Furthermore, the European Parliament's amendment raises additional concerns in regard to article 20 (2) which would exclude series, serials and documentaries from the rule that specifies that transmission of television programmes may be interrupted by television advertising once for each scheduled period of at least 30 minutes. Hence the regulation on isolated advertising and teleshopping spots would be liberalised even further.

Competition between different media, especially TV, radio and the press is particularly acute and a balanced distribution of advertising revenue between different media must be safeguarded. In the interest of a vibrant and pluralistic media landscape, where broadcasting media and the press can co-exist successfully as vehicles of information, entertainment and education, reasonable rules are necessary in order to maintain a high relative balance between traditional media.

In that connection we would like to point to a lack of clarity when it comes to the Parliament amendment on article 23 (1) that lays down that „*Member States shall remain free to define a prime time window*“. This wording opens a legal grey zone that suggests that Member States would not only have the choice to freely define a prime time window but could also decide whether they want to define one at all. When a compromise is reached on this provision a reformulation should make clear that defining a prime time window is mandatory.

To ensure both a high level of consumer protection and a level playing field in the media ecosystem, keeping quantitative limitations on advertising (especially a limitation within prime-time hours) and maintaining single spots as the exception is justified.

We call for the Council to take into account these considerations in the upcoming trilogue negotiations for the purpose of preserving a vibrant pluralistic and independent press sector.

Yours sincerely,