

# Implications of the Revisions of the AVMS Directive for CEE

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European Impacts on the development of the  
media systems of Central and Eastern Europe  
Budapest, 20-21 June, 2016

# Outline

- The AVMS Directive, in CEE
- Why revising now
- Proposed changes to AVMS Directive
- Potential Implications for CEE

# TWF to AVMSD

- CoE Convention on Trans-frontier Television mirrored in the EU's Television without Borders Directive
- Audiovisual Media Services Directive (AVMSD) replaced TWFD
- Supposed to be more "future proof" with non-linear "television-like" services, but maintained distinction
- Set minimums standards for content (ads, protecting minors) and quotas for European & indy works; defined jurisdiction



# AVMS in CEE

- Those countries that joined the EU in 2004 & 2006 were signatories to CTT; had already adapted to TWFD during integration process
- Did not have much of a say in the AVMSD, which was adopted in 2005, implemented by 2007
- Many are small countries with unique languages
- All were undergoing extreme transformation in media markets - PSB, liberalisation, commercialisation, technology

# Consequences?

- Opening of borders meant greater competition for domestic channels for viewers
- Interacted with technological change and liberalisation in other policy areas
- Requirements for monitoring and reporting on national regulators with varying capacity
- Massive growth in linear channels; majority in all but DE, ES, IT & UK were foreign channels

**Happening Anyway**

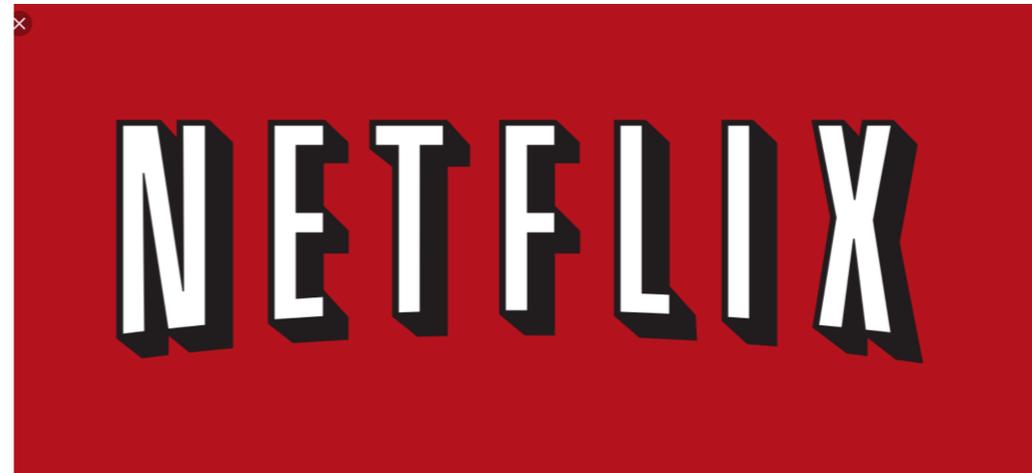
# Consequences?

Also...

- Czech Republic among the top 4 countries of origin
- Advertising revenue for linear TV increases mostly found in CEE countries (not big, but not loss)
- European quotas meant domestic language content present on domestic television and production of original content, though of questionable quality

**AVMSD didn't solve big problems in CEE media systems**

# Why Revision?



# Problems identified...

- Imbalance - small countries disadvantaged by competition
- "Targeting" by foreign channels not effectively resolved through co-ordination mechanism -
- Restrictions and obligations on linear TV unfair in face of competition from on-demand and other new services
- Concerns about protecting minors on services not covered by AVMSD
- Lack of independence of national regulatory authorities and inconsistent enforcement

# Proposed Revisions

Published by European Commission 25 May, 2016

# Country of Origin

- Principle is upheld, but supposed to be easier for member states to deal with problematic "targeting"
- Origin is where most of a companies' workforce is located
- Member states contribute to database (Mavise); Commission will resolve disputes over jurisdiction within 15 days

Derogations:

**Twice in 12 mos**

- (a) manifestly, seriously and gravely infringes Articles 6 or 12, or both;
- (b) prejudices or presents a serious and grave risk of prejudice to public security, including the safeguarding of national security and defence; or
- (c) prejudices or presents a serious and grave risk of prejudice to public health.

# Scope

## Video-sharing platforms:

"(i)the service consists of the storage of a large amount of programmes or user-generated videos, for which the video-sharing platform provider does not have editorial responsibility;

(ii)the organisation of the stored content is determined by the provider of the service including by automatic means or algorithms, in particular by hosting, displaying, tagging and sequencing;

(iii)the principal purpose of the service or a dissociable section thereof is devoted to providing programmes and user-generated videos to the general public, in order to inform, entertain or educate"

**No more "television-like" services**

# Levelling playing field

- Rules about incitement, hatred, and protecting minors apply equally to linear and non-linear services
- "Video-sharing" platforms must also take measures on these things allowing for notification systems, filtering or other measures
- Rules for sponsorship and product placements are relaxed and applied equally (Maybe including "channels" on video-sharing platforms?)
- Advertising for linear services is relaxed to allow flexibility in scheduling

# European Content

- Old quotas for European works and independent production are upheld for linear services
- On-demand services must have 20% of their catalogue that is European works and must give prominence to European works

"2. Member States may require providers of on-demand audiovisual media services under their jurisdiction to contribute financially to the production of European works, including via direct investment in content and contributions to national funds"

# National Regulators

Article 30 is heavily expanded to include:

- regulators must be legally and functionally independent;
- they must have adequate enforcement powers;
- their heads cannot be dismissed unless they no longer fulfil legally established conditions to do the job;
- and they must have separate budgets.

There must be a mechanism of appeal for services against decisions or measures of the regulator, which should be a court

ERGA is established to "advise and assist" the Commission and for exchange of best practices and for co-ordination among national regulators.

# Implications?

- More flexibility for broadcasters on advertising, product placement and sponsorship
- Simpler redress process in cases of "targeting", ability for national regulators to act on foreign channels
- Putting levies on foreign VoD services to support national content production would be allowed (threshold?)
- Might help improve independence of regulators?

# Implications?

- A lot of dependence on co-regulation or self-regulatory codes that have not tended to be very effective in CEE
- High potential for significant demands on national regulators in implementation - especially if "channels" on video sharing platforms are to be covered
- Still does not solve: PSB/M sustainability and independence; many threats to media freedom and political influence over media; overall capacity for content production challenges in smaller states; and more...

# What's next

- Lobbying, lobbying, lobbying
- European Parliament amendments, European Council amendments
- Trialogue

**All moments to attempt to improve it**