

# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 1

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

#### Amendment 1 Recital 27

(27) Therefore, in order to safeguard the fundamental freedom to receive information and to ensure that the interests of viewers in the European Union are fully and properly protected, those exercising exclusive rights concerning an event of public interest **should** grant other broadcasters and intermediaries, where they are acting on behalf of broadcasters, the right to use short extracts for the purposes of general news **programming** on fair, reasonable and non-discriminatory terms taking due account of exclusive rights. Such terms should be communicated in a timely manner before the event of public interest takes place to give others sufficient time to exercise such a right. As a general rule, such short extracts should not exceed 90 seconds.

(27) Therefore, in order to safeguard the fundamental freedom to receive information and to ensure that the interests of viewers in the European Union are fully and properly protected, those exercising exclusive rights concerning an event of **high** public interest **must** grant other broadcasters and intermediaries, where they are acting on behalf of broadcasters, the right to use short extracts for the purposes of general news **programmes** on fair, reasonable and non-discriminatory terms taking due account of exclusive rights. Such terms should be communicated in a timely manner before the event of public interest takes place to give others sufficient time to exercise such a right. As a general rule, such short extracts should not:

- exceed 90 seconds,
- **be transmitted before the event concludes**

*be transmitted before the event concludes, or for sports events before the end of a single day's play - whichever sooner - be screened later than 36 hours after the event,*  
*- be used to create a public archive,*  
*- remove the logo or other identifier of the host broadcaster, or*  
*- be used in non-linear services other than they are offered on a live or deferred basis by the same media service provider.*

*The right to trans-frontier news access should apply only where it is necessary; accordingly, if another broadcaster in the same Member State has acquired exclusive rights to the event in question, access must be sought from that broadcaster. For pan-European broadcasters, the relevant regulation is the one of the Member State in which the event takes place.*

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 2

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

### Amendment 2

#### Recital 46

(46) Product placement is a reality in cinematographic works and in audiovisual works made for television, but Member States regulate this practice differently. To ensure a level playing field, and thus enhance the competitiveness of the European media industry, it is necessary to adopt rules for product placement. The definition of product placement **introduced here** covers any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, normally in return for payment or for similar consideration. **It** is subject to the same qualitative rules and restrictions applying to advertising.

(46) Product placement is a reality in cinematographic works and in audiovisual works made for television, but Member States regulate this practice differently. To ensure a level playing field, and thus enhance the competitiveness of the European media industry, it is necessary to adopt rules for product placement. ***It is useful to have a positive list which authorises product placement in the types of content whose paramount function is not to influence opinion, and in cases in which no - or only negligible - consideration is provided in return.*** The definition of product placement covers any form of audiovisual commercial communication consisting of the inclusion of or reference to a product, a service or the trade mark thereof so that it is featured within a programme, normally in return for payment or for similar

consideration. *It may consist of placing at a person's disposal services or items having a monetary value, for the acquisition of which the recipient would otherwise have had to use his own financial, personal or material resources. Product placement is subject to the same qualitative rules and restrictions applying to advertising. It should, furthermore, meet specific requirements. The editorial responsibility and independence of the media service provider must not be jeopardised. In particular, the way the product is included in the programme must not create the impression that the product is endorsed by the programme or its presenters. Furthermore, the product must not be given 'undue prominence'. This means prominence which is not justified by the editorial requirements of the programme, or the need to lend verisimilitude. Undue prominence may also mean the repeated appearance of the brands, goods or services in question or the manner in which they are given prominence. Account should also be taken of the content of the programme in which they are introduced. In the interests of consumer protection and transparency, there should be a comprehensive requirement to display a symbol. The symbol superimposed in the course of the programme should not be based on the logo of the firm providing the product, to avoid introducing any additional advertising effect. For that reason, a neutral logo should be chosen, whereas audiovisual media service providers should be kept informed of any product placement in the audiovisual and cinematographic works that they acquire.*

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT

by Ruth HIERONYMI, on behalf of the EPP-ED Group

by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

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on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

#### Amendment 3

#### ARTICLE 1, POINT 5

Article 3, paragraph 1 (Directive 89/552/EEC)

1. Member States shall remain free to require media service providers under their jurisdiction to comply with more detailed or stricter rules in the areas covered by this Directive.

1. Member States shall remain free to require media service providers under their jurisdiction to comply with more detailed or stricter rules in the areas covered by this Directive ***provided that these rules are in compliance with Community law and do not distort competition.***

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 4

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 4

ARTICLE 1, POINT 5

Article 3, paragraph 1a (new) (Directive 89/552/EEC)

*1a. In cases where a Member State:*  
*(a) has exercised its freedom under paragraph 1 to adopt more detailed or stricter rules; and*  
*(b) where these rules are justified for reasons of public policy, including the protection of minors or public security or public health or the protection of the cultural diversity; and*  
*(c) this Member State assesses that a broadcaster under the jurisdiction of another Member State takes advantage of this Directive in abusive or fraudulent manner in order to circumvent these rules, it may contact the Member State having jurisdiction with a view to achieving a mutually satisfactory solution to any problems posed. On receipt of a substantiated request by the first Member State, the Member State having jurisdiction shall request the broadcaster*

***to comply with the rules in question. The Member State with jurisdiction shall inform the first Member State of the results obtained following this request within two months.***

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 5

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 5

ARTICLE 1, POINT 5

Article 3, paragraph 1b (new) (Directive 89/552/EEC)

*1b. Where the first Member State considers:*

*(a) that the results achieved through the application of paragraph 1a are not satisfactory; and*

*(b) that the media service provider concerned has established itself in the Member State having jurisdiction in order solely to avoid the stricter rules, in the fields coordinated by this Directive, to which it would be subject if it were established in the first Member State, it may adopt appropriate measures against the media service provider concerned., in order to prevent abuse or fraudulent conduct.*

*Such measures shall be objectively necessary, applied in a non-discriminatory manner, be suitable for attaining the objectives which they pursue and may not go beyond what is necessary*

*to attain them.*

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 6

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 6

ARTICLE 1, POINT 5

Article 3b, paragraph 1 (Directive 89/552/EEC)

1. Member States shall ensure that, for the purposes of short news reports, broadcasters established in other Member States are not deprived of access on a fair, reasonable and non-discriminatory basis to events of high interest to the public which are transmitted by a broadcaster under their jurisdiction.

***1. Pursuant to the principle of freedom of access to information as enshrined, in particular, in Article 11 of the Charter of Fundamental Rights of the European Union, and without prejudice to existing contractual agreements between broadcasters and without undermining exclusive rights, each Member States shall ensure that, for the purposes of short news reports, including reports intended for pan-European broadcasts, broadcasters established in other Member States are not deprived of access on a fair, reasonable and non-discriminatory basis to events of high interest to the public which are transmitted by a broadcaster under their jurisdiction. The broadcaster granting such access shall be entitled to appropriate compensation for technical costs incurred.***

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 7

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 7

ARTICLE 1, POINT 5

Article 3b, paragraph 2 (Directive 89/552/EEC)

2. *Short news reports* may *be chosen* freely *by the broadcasters* from the transmitting broadcaster's signal with at least the identification of their source.

2. *Broadcasters* may freely *choose short extracts* from the transmitting broadcaster's signal with at least the identification of their source. *Such extracts shall be used exclusively for general news programmes.*

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 8

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

#### Amendment 8

#### ARTICLE 1, POINT 6

Article 3g, point (f) (Directive 89/552/EEC)

(f) audiovisual commercial communications must not cause moral or physical detriment to minors. Therefore they shall not directly exhort minors to buy a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or *unreasonably* show minors in dangerous situations.

(f) audiovisual commercial communications must not cause moral or physical detriment to minors. Therefore they shall not directly exhort minors to buy a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised, exploit the special trust minors place in parents, teachers or other persons, or show minors in dangerous situations.

Or. en

#### *Justification*

*Media service providers should take a responsible attitude regarding children's welfare, which can be achieved via self-regulation.*

# EUROPEAN PARLIAMENT

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2009

06.12.2006

## AMENDMENT 9

by Ruth HIERONYMI, on behalf of the EPP-ED Group

by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 9

ARTICLE 1, POINT 6

Article 3g, point (fa) (new) (Directive 89/552/EEC)

*(fa) Member States and the Commission should encourage audiovisual service provider to develop a code of conduct regarding children's programming containing or being interrupted by advertising, sponsorship or any marketing of unhealthy and inappropriate foods and drinks such as those high in fat, sugar and salt and of alcoholic beverages.*

Or. en

*Justification*

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# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 10

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 10

ARTICLE 1, POINT 6

Article 3ha (new) (Directive 89/552/EEC)

#### *"Article 3ha*

*1. Product placement shall be prohibited. In particular news and current affairs programmes, children's programmes, documentaries and programmes of advice may not contain product placement.*

*Product integration and thematic placement shall be prohibited in principle.*

*2. However, unless Member States decide otherwise, product placement shall be admissible in cinematographic works, films and series made for television and sports broadcasts.*

*Production props where no payment is made but certain goods or services are merely provided free of charge with a view to their inclusion in a programme shall be allowed.*

*The programmes containing product placement or production props shall meet the following requirements:*

*(a) their content and, in the case of television broadcasting, their scheduling, shall in no circumstances be influenced in such a way as to affect the responsibility and editorial independence of the media service provider;*

*(b) they shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;*

*(c) they shall not give undue prominence to the product in question;*

*(d) in cases of product placement viewers shall be clearly informed of the existence of product placement. Programmes containing product placement shall be appropriately identified at the start and the end of the programme and by a signal at least every 20 minutes during the programme in order to avoid any confusion on the part of the viewer.*

*In cases of production props the viewer shall be informed of the use of any such aid by appropriate means.*

*3. In any event programmes shall not contain product placement or production aid for:*

*- tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products; or*

*- specific medicinal products or medical treatments available only on prescription in the Member State within whose jurisdiction the media service provider falls.*

*4. The provisions of paragraphs 1, 2 and 3 shall apply only to programmes produced after the date by which this Directive is required to be brought into force by the Member States.*

Or. en

*Justification*

# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## AMENDMENT 11

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### Report Ruth Hieronymi (A6-0399/2006)

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

#### Amendment 11

#### ARTICLE 1, POINT 10

Article 11, paragraph 1 (Directive 89/552/EEC)

(1) *Member States shall ensure, where advertising or teleshopping is inserted during programmes, that **the integrity of the programmes and** the rights of the right holders are not prejudiced.*

(1) Advertising *and* teleshopping *spots may be* inserted *between programmes. Advertising and teleshopping spots may also be inserted* during programmes, *in a manner which does not jeopardise their integrity, taking into account natural interruptions in the programme, in such a way* that the rights of the right holders are not prejudiced.

Or. en

#### *Justification*

*The substantial relaxation proposed by the Commission in Article 11 would seriously jeopardise the balance currently in place between the need for programme funding, ease of viewing, programme quality and respect for works. However, it seems fair to allow broadcasters greater flexibility as regards the insertion of advertising spots in their*

*programmes.*

*Consequently, in line with the principle of separating advertising from the rest of the programme, the equally fundamental principle of inserting advertising between programmes must be made explicit. The proposal thus aims to maintain the essence of the current Article 11(1), in particular by preserving the criterion of ‘natural programme interruptions’, which makes it possible to prevent sudden or untimely interruptions.*

*Article 11(2) represents a compromise between the need to preserve the quality and integrity of all programmes – in particular, series, serials, light entertainment programmes and documentaries – and the legitimacy of offering broadcasters more flexibility by replacing the 20 minute rule with three interruptions per clock hour.*

*Article 11(3) seeks to provide a framework for the retransmission of sports events, whose unpredictable nature justifies special arrangements so as not to deprive viewers of phases of play.*

# EUROPEAN PARLIAMENT

2004



2009

06.12.2006

## **AMENDMENT 12**

by Ruth HIERONYMI, on behalf of the EPP-ED Group  
by Ignasi GUARDANS CAMBÓ, on behalf of the ALDE Group

### **Report Ruth Hieronymi (A6-0399/2006)**

on the proposal for a directive of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities

[COM(2005)0646 - C6-0443/2005 - 2005/0260(COD)]

Commission proposal

Amendment by Parliament

Amendment 12

ARTICLE 1, POINT 14

Article 18a (Directive 89/552/EEC)

*Article 18a is deleted*

*Audiovisual commercial communication windows such as teleshopping, teleshopping windows and telepromotions shall be clearly identified as such by optical and acoustic means.*

Or. en

### *Justification*

*The total removal of daily limits for Teleshopping Windows as is stated in the European Commission proposal by deleting article 18.a. could raise some considerable risks and does not contribute to any particular objective of the Directive. More importantly, this complete release and the overstock of media time for Teleshopping Windows, will allow questionable players, and rogue traders to take advantage of this opening, thus impacting the positive results already accomplished by the industry through robust self-regulation programmes and the continuous promotion of the highest standards. Overall this measure could undermine the efforts of the Teleshopping industry in Europe to create the highest standards for consumers.*