



The European VoD Coalition (the “Coalition”) represents video-on-demand (VoD) companies active across the entire EU, with a range of business models focused on investment in audiovisual content and distribution. The Coalition welcomes the opportunity to contribute to the European Commission’s public consultation for a European Media Freedom Act (EMFA).

Media regulation is an important topic for the Coalition and we agree with the Commission’s assessment that the media sector is a significant part of the European economy, operating increasingly across borders, creating jobs, partnering locally with thousands of SMEs, and offering an invaluable service as the fourth pillar of our democratic systems. Safeguarding and promoting media pluralism should therefore also be the prime objective of the EMFA.

We are witnessing a ‘Golden Age’ for audiovisual (AV) content creation, stimulated by thriving competition between AV services, including VoD, and leading to more opportunities for local producers and talent. This organically drives diversity of content and plurality of services offered. Cross border services are additive to local media services and make an important contribution to local and European content, showcasing diversity of perspectives, travelling across Europe.

The Country of Origin (COO) principle has been instrumental for increasing the plurality of offerings in the EU internal market for AV services. It is therefore important to avoid introducing additional cross border friction and exemptions. The EMFA should re-enshrine a strong COO principle and highlight the need for less barriers to entry to markets. We would like to emphasise that the Audiovisual Media Services Directive (AVMSD) has yet to be fully implemented and the impact of different national practices and effectiveness of new mechanisms will take time to measure. Industry currently faces challenges due to the permitted derogations to the COO principle, which have led to diverging national implementation and extra regulatory gold-plating. This approach, at a time when investment risks are increasingly high, does not benefit the sector and creates barriers to the EU internal market. Notably, investment obligations across Europe are becoming a barrier to entry for companies that want to offer their services in as many EU countries as possible. They risk shifting the focus away from producing high-quality and diverse European content that consumers want, and could ultimately lead to less diversity, less innovation and less availability of quality content.

Likewise, current discussions on new rules on the prominence of services of general interest also invite divergency among Member States as the definition of general interest services is subject to national and cultural values. Services of general interest are often wrongly confused with state-funded content whereas commercial on-demand services can equally be recognized as contributing to plurality of the media offer, including content of general interest. However, before seeking new rules it is recommended to wait till the full implementation of AVMSD across all Member States and the real impacts can be assessed over longer periods of time. Prominence should also not be used as a reason to begin creating even more regulation and protectionism in our sector, whether on prominence of services or by regulating operating systems or remote controls in the EMFA.

The Coalition is concerned that the valuable objective of eliminating media interference by public entities and of safeguarding media pluralism could be expanded to cover other unrelated topics. An example is audience measurement: we believe that industry is best placed to create and establish audience measurement systems, when these are relevant for specific business models.

The EMFA should focus on ensuring the independence of public service media from governments. If the goal is to safe-guard the media market beyond media-pluralism and independence, we recommend doing so in a new legislation that focuses on the protection of content. We have yet to see in this area a clear European approach, European legislation and European cooperation. The EMFA can help to lay the foundations by strengthening ERGA, to be fully independent and to increase capacity in tackling online piracy and creating the right structures to achieve the upcoming proposal's important objectives.
