

Paolo Romani
Vice Ministro allo Sviluppo Economico
Presidenza del Consiglio dei ministri
Palazzo Chigi
Piazza Colonna 370
00187 Roma - Italy

Brussels, 29 January 2010

Dear Deputy Minister Romani,

RE: Proposed Italian draft decree implementing the EU Directive on Audiovisual Media Services (2007/65/EC).

The Italian government has recently proposed a draft decree aimed at implementing the provisions of the EU Directive on Audiovisual Media Services (AVMS). **EDiMA believes this proposal, in its current form, significantly extends the Directive beyond its intended scope and presents a significant threat to the provision of such services to Italian consumers.**

The AVMS Directive updates the regulatory framework for TV and “television-like” services (e.g. Video on Demand services) and explicitly excludes broader information society services¹. **The obligations implied in the Italian draft decree, however, would capture user-generated and user-uploaded video and would have the effect of extending broadcasting regulation to these services, including rules on editorial responsibility. This would threaten the viability of and introduce significant barriers to entry for this sort of service in Italy.**

The provision of user generated content and other web-based services is clearly an information society service and, as such, covered by the E-Commerce Directive (2000/31/EC). This Directive prohibits Member States from imposing additional measures such as those in the Italian proposal without first notifying the European Commission and obtaining approval.

Failure to limit or restructure these implementation measures in line with the intended scope of the AVMS Directive and an uncoordinated or inconsistent implementation across the EU would severely damage the online content industry. It would stifle innovation and competition by significantly increasing compliance costs and delaying market entry, harming not only established service providers but also new entrants and European citizens and consumers. This would result in greater legal uncertainty and would ultimately have a negative impact on providers of information society services as well as consumers who wish to consume such services across borders.

¹ Among others, these include content hosting services, services which are not TV-like in their form and content, user generated content services or services where the audiovisual element is incidental. See Recitals 16-23 of Directive (2007/65/EC).



EDiMA calls upon the Italian government to carefully reconsider the scope and aim(s) of the draft decree and upon the European Commission to ensure that Member States implement the Directive consistently and appropriately. **Without such consistency, the Digital Single Market cannot be achieved.**

Sincerely yours,



Lucy C. Cronin
Executive Director, EDiMA

Cc:

Charlie McCreevy, European Commissioner for Internal Market
Viviane Reding, European Commissioner for Information Society and Media
Jorgen Holmquist, Director General, DG Internal Market, European Commission
Fabio Colasanti, Director General, DG Information Society and Media, European Commission

The European Digital Media Association (EDiMA) is an alliance of new media and Internet companies whose members include Amazon EU, Apple, eBay, Google, Microsoft, Music Choice, Nokia, RealNetworks, Yahoo! Europe, Orange and many others. EDiMA's members provide new media and Internet platforms offering users a wide range of online services, including the provision of audiovisual content, media, E-commerce, communications and information/search services. EDiMA represents the interests of the new media sector in Europe in policymaking, standards development and industry cooperative activities.

