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Luxembourg Newsflash - 9 March 2021

Law on electronic media amended to meet today's audiovisual needs

Law of 26 February 2021 amending the law of 27 July 1991 on electronic media and implementing Directive (EU) 2018/1808 (the "*Audiovisual Media Services Directive*")

The law of 26 February 2021 amending the law of 27 July 1991 on electronic media (the "Electronic Media Law") and implementing the Audiovisual Media Services Directive was adopted on 26 February 2021 to implement (faithfully) the so-called Audiovisual Media Services Directive.

This directive, based on seven pillars (as described below), modernises the law of 27 July 1991 on electronic media to reflect technological developments and the evolution of uses in the area of audiovisual media services.

In its initial version, the law of 27 July 1991 on electronic media aimed to regulate television broadcasting activities. The law was innovative at that time; however, important developments over the last decade in audiovisual media offerings such as social networks, video-on-demand and video-sharing platform providers created the need for modernisation of this outdated framework.

As mentioned above, the Audiovisual Media Services Directive identifies seven focus areas:

- 1. Extension of the scope of the framework currently in place** (applicable to television media providers) to video-sharing platform services as well as audiovisual content shared on certain social media services,
- 2. Modification of the criteria for determining the legal jurisdiction** of the country of origin of an audiovisual media service provider by requiring EU Member States to maintain up-to-date lists of providers that fall under their jurisdiction,
- 3. Better protection of children** against programmes that could harm their physical, mental or moral development by requiring video-sharing platforms to implement special measures to protect minors against inappropriate content,
- 4. Fighting against hate speech** more effectively (protection of minors and prohibition of incitement to violence, hatred and terrorism),
- 5. Making the rules that apply to the timing of advertisement** broadcasting by "traditional" television broadcasters more flexible and introducing additional requirements for sponsorship and

product placement in audiovisual programmes,

6. Strengthening the promotion of audiovisual production in European countries by imposing an obligation on on-demand audiovisual media service providers to display at least 30% European programmes, and

7. Broadening the powers of national regulatory authorities and strengthening their autonomy.

The Electronic Media Law also designates the *Autorité luxembourgeoise indépendante de l'audiovisuel* (the Luxembourg independent audiovisual authority) as the competent authority for the purpose of any media services-related claims, and notably puts it in charge of controlling the video-sharing platforms' implementation of the new measures it imposes on such platforms.

The law thus reflects an increased willingness by the European and Luxembourgish legislators to adapt law to technological developments and to regulate the internet in order to no longer allow traditional audiovisual media alone to bear the burden of constraining rules where competitors acting on the internet offer the same services.

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