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Revised rules on online video attacked

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European plans to regulate online audiovisual content remain a threat despite modifications to an European Commission directive, UK ministers and regulators have claimed.

Warning that continental Europe had a "stronger predilection for state intervention" than the UK, Shaun Woodward — the minister for creative industries and tourism — told a conference on Tuesday that the UK had nearly lost its battle to change the [Television Without Frontiers](#) (TVWF) directive, now renamed the Audiovisual Media Services (AVMS) directive.

"[The TVWF directive] was as entirely sclerotic and ill-conceived as the Common Agricultural Policy," Woodward said at the Westminster Media Forum event on privacy convergence and content regulation. "Had it gone through in its original form, it would have been as damaging."

Woodward went on to plead with the media industry to help him in the continuing fight against the directive, saying that it had not done enough to combat what he said was a "measure which would have damaged [the creative] industry beyond belief".

"We have to recognise it's a team game and not a one-man sport," Woodward added, while suggesting that "we nearly lost the argument".

The original purpose of the directive was to create a "level playing-field" across Europe for audiovisual services, whether on television or online. In effect, however, this meant that each country would have had to regulate all audiovisual online content put up in that country, with little distinction being made between, for example, what a television station put on normal TV screens and what it put online.

This sparked a wave of protest from the media industry, which

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claimed that it was unreasonable to expect things like advertisements to be subject to the same regulatory regime across old and new media. The Mobile Entertainment Forum suggested that such a move would ignore emerging business models on mobile platforms, and Woodward criticised what he termed a "lack of clarity" in the phrasing of the directive.

However, in November a European Council vote was held that forced a rephrasing of the directive, itself soon to be renamed. The latest draft of what is now the AVMS directive, published last week, makes a much clearer distinction between "linear" (ie scheduled, as on television) and "non-linear" (ie on-demand) content — a modification designed to exempt services such as YouTube from the regulation.

Critics are still unhappy with the wording of the directive, however, which some say remains open to interpretation. For example, one section of the current draft reads: "The definition of audiovisual media services covers only audiovisual media services, whether scheduled or on-demand, which are mass media, that is, which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public."

Woodward maintained that a self-regulatory approach — with occasional requests that inappropriate or illegal content be removed — was the way to go. "The issue is how you best protect the public," he told delegates. "Negotiations with ISPs, Google and Yahoo are more likely to achieve an instant response [as] sometimes the law is particularly tardy."

"The industry in the UK has been achieving spectacular growth in new media... without the need for state controls," Woodward added, while repeating his claim that imposing regulation on the new media industry would only drive production outside EU jurisdiction while failing to protect consumers from accessing "bad" content.

Tim Suter, the Ofcom partner responsible for content and standards, agreed that self-regulation was desirable, and suggested that an organisation for online media, along the lines of the Press Complaints Commission, might be the best option. Describing the AVMS directive as "wrongheaded", he said the best way to protect audiences from inappropriate content was to educate them.

Paul Staines — the political blogger better known as Guido Fawkes — added that "the best form of self-regulation is reputational risk", and noted that he already takes "great efforts" to make it difficult for lawyers to go after him by hosting his website outside the UK.

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