

INFORM. ENTERTAIN. CONNECT.



MANIFESTO 2024-2029

ACT : THE VOICE OF TV & VOD

ACT

Association of Commercial Television
& Video on Demand Services in Europe



ACT

Television and Video on Demand services are a fundamental part of European societies and creative economies. ACT members are at the heart of the European media success story, touching the lives of most Europeans on a daily basis. We are a vital part of Europe's pluralistic democratic order and economy, and have a core role to play in addressing the challenges facing the Continent.

**Countering fake news**

We provide European citizens with high quality, trusted news and information that supports their democratic engagement.

**Maintaining Europeans' favourite storytelling**

We show stories that reflect the lives and experiences of European audiences and support a world-beating creative ecosystem.

**Curation**

We curate and deliver a rich audio-visual experience that fits into the lives of European citizens and reflects cultural and linguistic diversity.

**Accountability**

We are responsible publishers, our services are regulated, fully accountable and cater for a pluralistic environment within the framework of the fundamental rights enshrined in the Treaties.

2024-2029 will be a decisive period for Europe's media environment.

The media industry and the needs and expectations of the Europeans viewers we serve continue to evolve.

As a result, how we produce, process, access and distribute content will also continue to evolve. Media companies respond to this with innovation and collaboration while continuing to deliver on our fundamental mission. 2029 will likely see a vastly different media ecosystem than we have today.

ACT members are present in almost every European household across multiple devices. They drive conversations about values and cultures, create new ways of enjoying content that make up the plurality of European identities. Our members make a substantial investment in quality information and journalism.

ACT members operate hundreds of dedicated news channels and fund newsrooms throughout Europe.





Commercial media is a major part of Europe's competitive edge. Commercial AV media services invest close to EUR 50 billion annually (Source: European AV Observatory) including in the production of original content; helping to support a vibrant and diverse audio-visual ecosystem. They are one of the key motors of Europe's Cultural and Creative Industry powerhouse, Europe's third largest source of jobs and growth.

Commercial media's contributions cannot be taken for granted. EU policies need to provide the right framework and where necessary adapt and prepare for this new world whilst preserving the ability for media to play its crucial role in Europe.

Media companies issues should be part of the next mandate's industrial policy approach as it is an industry with both economic and societal importance across the EU.

ACT members recommend that policy-makers look to three guiding pillars (**each of equal importance**) to secure cultural diversity, media pluralism, and economic growth:





1. Parameters that fit the new media environment

The economic reality of the audiovisual landscape in Europe needs a legal and regulatory framework that ensures stability and drives competitiveness.

- I. Consider very carefully any review of the Audiovisual Media Services Directive. If there is an intervention, it should be targeted only where there is a demonstrable need for change, prioritising consistency and stability. In the last mandate the EU adopted a multitude of landmark digital and media legislation (i.e.; DSA, DMA, AI Act, EMFA). It is of utmost importance that these key legislative projects are properly applied.
- II. Exercise caution to avoid harming the sustainability, financing and growth of media services when enacting protective measures (e.g. consumer legislation) aimed at addressing behaviour that is not attributable to our sector.



2. Policies that allow media to compete & grow

Allowing media to compete effectively and grow means effective support for pluralism, implementation of new ex ante European rules and a more modern competition policy framework.

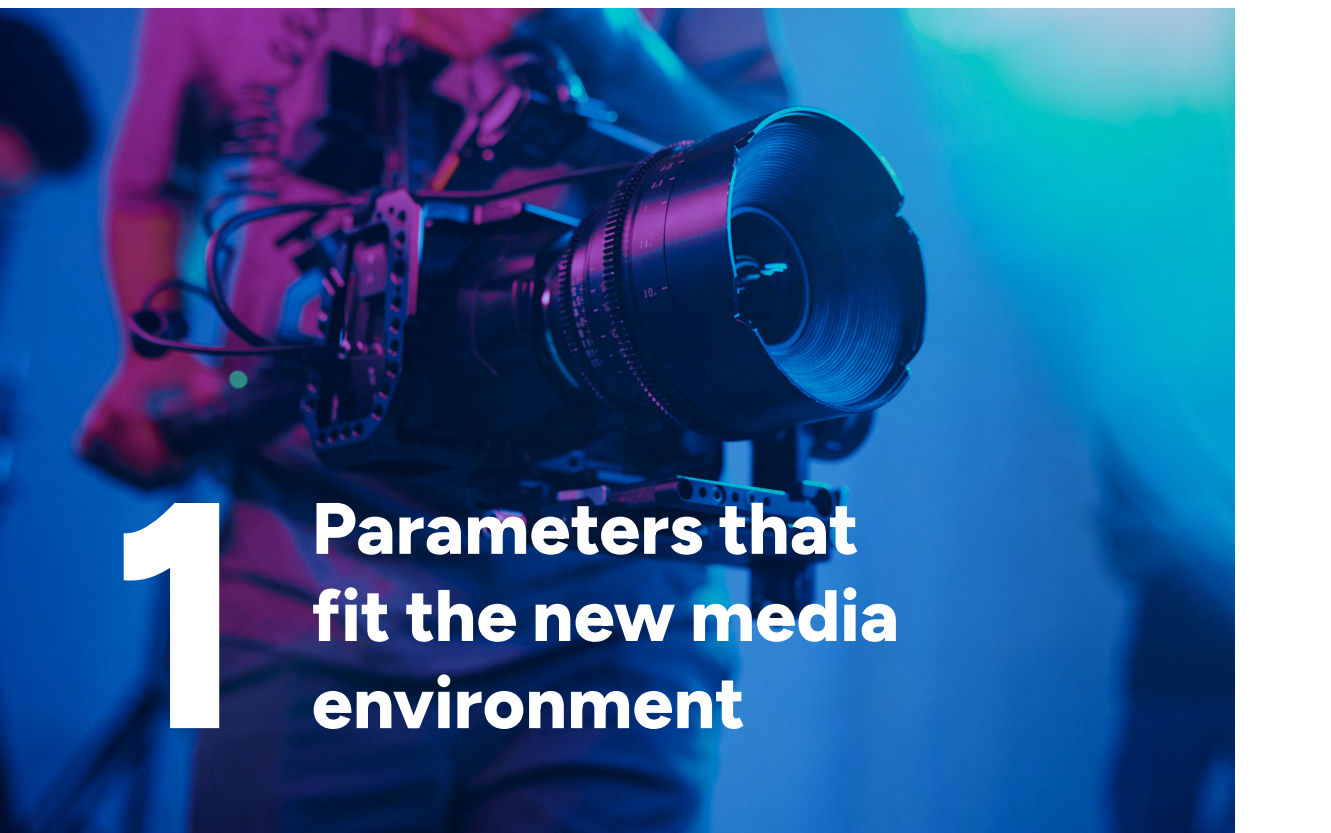
- III. Address designated digital gatekeepers' control of digital distribution with notably robust enforcement of the DMA.
- IV. Deliver a balanced and effective approach to supporting media pluralism that goes hand in hand with competitiveness and growth.



3. Principles to promote IP & contractual freedom

The fundamental commercial drivers of value for media – intellectual property and contractual freedom – need to be preserved and better enforced.

- V. Ensure a pro-competitive and coherent approach to IP, prioritise legal certainty and enact legislation to tackle piracy of live events as an important step to protect our sector's investment against ever-increasing rates of piracy.
- VI. Recognise our sector's high-risk investments in content by preserving the contractual freedom we have with production partners and the crucial financing mechanisms we rely on, such as territorial licenses.



1 Parameters that fit the new media environment

The economic reality of the audiovisual landscape in Europe needs a framework that ensures stability and drives competitiveness.

PRINCIPLE I

Consider very carefully any review of the Audiovisual Media Services Directive. If there is an intervention, it should be targeted only where there is a demonstrable need for change, prioritising consistency and stability. In the last mandate the EU adopted a multitude of landmark digital and media legislation (i.e.; DSA, DMA, AI Act, EMFA). It is of utmost importance that these key legislative projects are properly applied.



In the course of the next mandate, European institutions will review Europe’s “constitution” for media – the Audiovisual Media Services Directive (AVMSD).

Should this carefully considered review lead to an updating of the AVMSD, ACT members would call upon the European institutions to ensure it fits media market realities. A market that is already heavily impacted by a decade long decline in advertising revenues, direct competition from multi-sided and very large online gatekeepers on advertising and subscription fronts, inflation and economic stagnation that lowers disposable income.

As such, the industry needs rules that prioritise reinvestment opportunities and allow for a predictable business environment within the framework of a specific industrial policy for the audiovisual sector in the Single Market.



+1.12

MILLION PEOPLE

work in the audiovisual industry in Europe

POLICY ASKS

- ▶ Consistency for audiences and investors, with rules that create a fairer and more level playing field between AVMS and their competitors, in particular regarding online advertising
- ▶ Minimise unnecessary burdens on AVMS such as outdated advertising rules, disproportionate quotas and investments obligations whilst maintaining key principles such as the country of origin for ACT members and definitions such as European Works
- ▶ Policies should not advantage specific business models over others
- ▶ Multi-sided/very large online gatekeepers and intermediaries should share responsibility and financing for public policy objectives to address asymmetric obligations affecting fair competition



PRINCIPLE II

Exercise caution to avoid harming the sustainability, financing and growth of media services when enacting protective measures (e.g. consumer legislation) aimed at addressing behaviour that is not attributable to our sector



A number of important initiatives are likely to have systemic impacts across the European economy:

- Protection of consumers and recognition of fundamental rights in digital environments
- Requesting all businesses operating in Europe fund infrastructure and tackle climate change

There is a real risk that interventions in these areas could disproportionately affect the sector by impacting the monetisation of media offers. Our sector already faces disproportionately high regulatory burdens and a lack of a level playing field. Of particular importance would be for commercial broadcasters to have a fairer and more balanced level playing field when it comes to advertising.

A risk-based approach should take into account the low-risk that curated environments like TV and VoD represent compared to other less regulated players. In so doing, recognise that TV and VoD bring a net positive contribution and a safe environment for all audiences and children in particular.

Regarding environmental policies, decision-makers should also recognise the need for a strong European media given its positive role in helping consumers make choices that support the transition to a sustainable future. We therefore call on decision makers to ensure their interventions in these areas are necessary, targeted and proportionate.



POLICY ASKS

- ▶ Adopt a risk-based approach regarding consumer protection measures, including for the most vulnerable (e.g. minors), that takes into account the low-risk that curated environments TV and VoD represent
- ▶ Avoid further advertising restrictions (HFSS, Energy, etc.) that undermine the refinancing of content and media pluralism
- ▶ Ensure environmental measures to monitor and control adverse environmental impacts are fit for purpose and proportionate to our particular activities



+120

BILLION EURO

annual turnover
of the European
audiovisual sector

- ▶ Support the financial sustainability of the AV sector with fair, proportionate and means tested international tax arrangements that target first and foremost digital Gatekeepers that pay little or no tax
- ▶ Reject any form of mandated charges or requirement to negotiate for payment of bandwidth use that would increase costs for media providers, consumers and penalise audiences by undermining investment in content and (new) services
- ▶ Clarify prominence guidance to ensure equivalent treatment between public and commercial media



2 Policies that allow media to compete & grow

Allowing media to compete effectively and grow means effective support for pluralism, implementation of new ex ante European rules and a more modern competition policy framework.



PRINCIPLE III

Address designated digital gatekeepers' control of digital distribution notably with robust enforcement of the Digital Markets Act (DMA).

Gatekeepers designated under the DMA are moving into the media space. In an increasing number of cases, they provide operating systems for Connected TVs. These large providers of operating systems (which control the user interface and content discovery) may behave as gatekeepers, shaping the way content is consumed. Furthermore, voice assistants operated by digital gatekeepers (e.g.; Google Assistant, Alexa, Siri) are becoming increasingly important mediators of consumer access to content services. This can have a negative impact on fair competition and audience choice.

EU lawmakers should also ensure that fair, reasonable and non-discriminatory access is granted by gatekeepers.



+9,390

TV CHANNELS
available in Europe

+12,700

AUDIOVISUAL
MEDIA SERVICES
available in Europe

Given the complementary role of DMA and anti-trust, ACT also urges the Commission to enforce antitrust rules vigorously to ensure digital designated gatekeepers cannot leverage their market power to expand unfairly in the media sector. Ultimately, the DMA should remain future-proof and relevant in the face of rapid technological evolution; thereby looking to incorporate other operating systems provided by DMA designated gatekeepers' where appropriate. Otherwise, the risk is to make designations that are obsolete from the start, leaving glaring enforcement gaps.

Commercial broadcasters should enjoy the full benefits of data generated by their services and retain the ability to connect with audiences and innovate with digital advertising tools. This means avoiding data rules that inherently entrench Big Tech's market position and favour their new offerings via the use of our viewers' data.



POLICY ASKS

- ▶ Deliver on promises made regarding dedicated set of rules that can be enforced against designated gatekeepers
- ▶ Where problems are identified with Connected TVs and/or voice assistants, we encourage EU lawmakers to address unfair practices and, where necessary, to extend their enforcement of the DMA to such services, when run by designated gatekeepers, to ensure they are not vehicles for market foreclosure, e.g. self-preferencing
- ▶ Continue to monitor the emergence, expansion and leveraging of designated gatekeepers' power, in particular Big Tech's moves to have their operating systems 'control the living room'
- ▶ Ensure swift intervention where gatekeeper power impacts competition in new and evolving digital areas such as cloud infrastructure and generative artificial intelligence
- ▶ Ensure European AVMS are not excluded, including through exclusionary practices by designated digital gatekeepers (e.g. by phasing out 3rd party cookies), from the ability to connect with audiences and innovate with digital advertising tools
- ▶ AVMS providers should enjoy the full benefits of data generated by their services
- ▶ Encourage the development and promotion of hybrid broadcast & IP standards (e.g.; HbbTV, DVB-I, RDK, etc.) that enable seamless evolution of distribution technologies and help broadcasters innovate





PRINCIPLE IV

Deliver a balanced and effective approach to supporting media pluralism that goes hand in hand with competitiveness and growth.

Commercial media needs to grow if it is to compete effectively in and beyond the European market. Growth will be driven by innovation and collaboration and requires a supportive environment to do so. Historic barriers, for example in the application of national merger laws and the way markets are defined, should be reappraised to ensure they do not constitute unnecessary hurdles towards allowing players to scale up.

The European Union should also take full advantage of the new provisions in the European Media Freedom Act (EMFA) to ensure AV media services can be freed of undue obligations and appropriately react to Big Tech's increased presence in the media landscape. In parallel, also ensure that its provisions serve to protect and promote quality journalism.



+3,230

VOD SERVICES
available in Europe

+50%

OF OUR REVENUES
are reinvested in
the creation of
audiovisual content

POLICY ASKS

- ▶ Protect the sustainability of European media by ensuring services are present and prominent on digital platforms under terms that reflect a fair exchange of value
- ▶ Clear and swift media market assessment procedures and definitions at both national and European (Board) level
- ▶ Robust EC enforcement of the EMFA's principles of media regulation for national measures undermining media pluralism and independence
- ▶ An EMFA enforcement approach that scrutinises digital platforms activities with regard to media markets, audience measurement and content moderation
- ▶ Ensure that measurement models accurately reflect the value of the AV environment in which advertising is placed



3

Principles to promote Intellectual Property & contractual freedom

The fundamental commercial drivers of value for media – intellectual property and contractual freedom – need to be preserved and better enforced.

PRINCIPLE V

Ensure a pro-competitive and coherent approach to Intellectual Property (IP), prioritise legal certainty and enact legislation to tackle piracy of live events as an important step to protect our sector’s investment against ever-increasing rates of piracy.

The past decade has seen an unprecedented amount of intellectual property rules emanating from the European Union. This has created a complex compliance environment as regards rights and responsibilities of various actors in the audiovisual chain. Differing interpretations across legislations and jurisdictions continue to arise.

It remains to be seen whether these rules will have a net positive impact on the creative chain or will way it down with more administrative red tape.

Conversely, technological and communications advances have made piracy easier and more lucrative for pirates. Regulation has not kept pace. Piracy remains one of the main causes of value destruction in the media sector, and the fight against it can no longer rest in the hands of rightsowners alone.



POLICY ASKS

- ▶ Introduce a Regulation to fight online piracy of live events as a first building block to the DSA with measure to capture players that are not covered by the DSA and speed up the take-down process
- ▶ Conclude the WIPO Broadcasting Treaty as a step in the right direction towards ever greater international anti-piracy instruments to protect broadcasters’ rights on a global scale
- ▶ Coherence between different elements of the copyright framework notably the CDSMD, DSA, SatCab Directive and AI Act to ensure right holders can effectively protect and enforce their rights
- ▶ Give the new Copyright Directive obligations time to settle. As the AV sector continues to integrate these rules, there is no need for any further reviews or revisions
- ▶ Balance IP protection and innovation in AI rules by making sure IP rights continue to be adequately protected and enforced in the context of technological developments including via reasonable transparency obligations

+210

MINUTES PER DAY

average viewing time of linear TV in the EU



PRINCIPLE VI

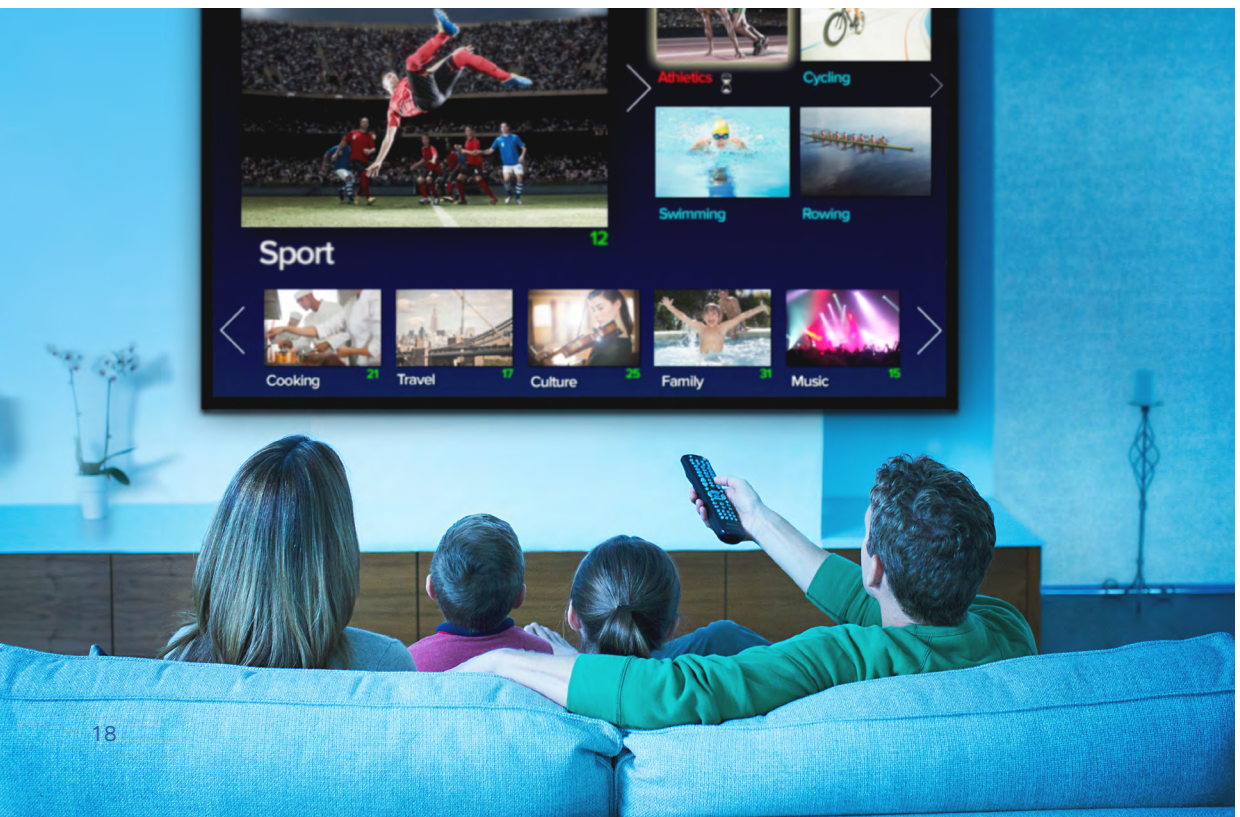
Recognise our sector's high-risk investments in content by preserving the contractual freedom we have with production partners and the crucial financing mechanisms we rely on, such as territorial licenses.

Media and their associated market remain primarily nationally based and focused. This is not in opposition to the European project but rather a guarantor of pluralism and cultural diversity. European decision-makers have time and again recognise the unique qualities of media markets and the business models that ensure its sustainability.

It is important to ensure this recognition continue so that the European AV model

can continue to deliver record levels of content which travels across borders as well as new services catering to local and national needs.

ACT members play a key role in the creation, production, distribution, and financing of AV projects; all of which contribute to the growth of the ecosystem, to cultural diversity and media pluralism. As such and as a matter of principle, policies should allow commercial media to have the necessary flexibility. Given the high risks involved in media investments; legal certainty and contractual freedom remain essential.





+49

BILLION EURO PER YEAR
 is reinvested in content
 by Europe's largest
 commercial broadcasters
 in Europe

POLICY ASKS

- ▶ Acknowledge and protect the role of exclusive territorial licensing in the financing of audio-visual content (i.e. maintain the geo-blocking exemption for AV works)
- ▶ Avoid a one-size-fits-all approach and preserve production partners' contractual freedom and flexibility to choose between different financing schemes, that reflect the specific case-by-case needs and level of risk that come with each individual project
- ▶ Refrain from applying any collective licensing requirements that undermine functioning voluntary and direct bargaining mechanisms
- ▶ Enable right-ownership and terms of trade based on the financial/entrepreneurial risks undertaken



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