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## FSE DOCUMENTATION

# Public hearing on the Audiovisual Media Services Directive European Parliament Intervention of Christina Kallas, President of the FSE

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**Fédération des Scénaristes d'Europe // Federation of Scriptwriters in Europe**

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## Audiovisual Media Services Directive

My name is Christina Kallas. I am a writer. I am the President of the Federation of Scriptwriters in Europe which has twenty-one member organisations representing 9.000 writers all over Europe. I am also a member of the Board of the German Screenwriters Guild - and I am Greek. So I consider myself a genuine European filmmaker.

I am most grateful to you for this opportunity to address this public forum on the question to the proposed review of the Television Without Frontiers Directive and in particular the question of the proposed loosening of the rules on product placement.

The directive has been a considerable success. It offers a framework that has encouraged the development of the European audiovisual industries. Also it allows broadcasters to earn a significant income from advertising, while protecting consumers. We want it to be clear that we are not opposed to commercial television or to advertising. But we do believe that some rules are necessary.

The Commission has done an excellent job in many respects in its review of the Television Without Frontiers directive. In most respects it has succeeded in maintaining a careful balance in its proposed amendments to the directive - but: in common with most of the groupings of creative workers in the industry, writers are concerned that in some areas the Commission has faltered, and erred too much on the side of doing nothing when in fact some modest level of regulation is needed.

For example we are strongly of the view that the Directive's quotas for European works can and should be extended to non-linear audiovisual services. Given the rapid and far-reaching developments in digital media services it is probable that within a relatively short period most consumption of audiovisual material will be outside the traditional methods of television broadcasting, so if such an extension of obligations were not included then the meaning and effectiveness of the Directive would be fatally undermined.

We are also of the view that the quotas, which have successfully existed for fifteen years, can have some of their more cautious aspects tightened and improved. There is no reason any more, for example, to allow an escape from the quotas by saying that they only apply 'where practicable and by appropriate means.'

In general however we welcome the proposed amendment to the Television Without Frontiers directive and congratulate the Commission, and the Commissioner, on the document.

There is however one more topic in the proposed draft directive where the Commission has not got it right, I'm afraid to say, and that is the question of product placement.

The Commission is wrong on two points - firstly the approach to product placement is immensely unclear in the draft directive and its proposal is full of contradictions which will lead to serious potential difficulties for the implementation of the directive (I will enumerate some of those in a moment) and secondly the Commission seems not to be in touch with rapid changes which are taking place in the area of product placement in the comparatively unregulated advertising market of the United States - changes which will be coming to Europe soon.

Firstly may I address the question of the problems of drafting in the current Commission proposal.

One drafting problem concerns the definitions: product placement is defined as placement of products in the programme where consumers are aware of the product and surreptitious advertising is where consumers are not aware. The only real difference would be the notice at the beginning of the programme. But can the Commission

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guarantee that consumers will read that notice? If the consumer fails to notice the announcement that there is product placement then in what way does his or her experience of the product placement differ from surreptitious advertising?

Besides, product placement is advertising and placing a product in a programme clearly is the combination of advertising and content. The current draft quite properly prohibits this combination. The same draft allows product placement. There is more than a slight contradiction there.

The current draft also limits the amount of advertising time, which can be broadcast per hour but has no limit on the amount of advertising which can be placed inside the programme in the guise of product placement. This is not a theoretical problem. An American reality series, "The Contender," set a record last year when it inserted 626 product placements into every hour of the show.

Another drafting problem concerns the impact of advertising on minors. The current draft has quite properly inserted separate concerns about the impact of advertising on minors but there is no definition of children's programmes and no definition of family programmes. Often the line is very thin there.

There are other problems with the current draft that are not referred to at all. For example the copyright and moral rights situation is different in Europe. If an advertisement is inserted into a programme, who will own the copyright in the advertising copy? And what about the writer's moral rights?

However these drafting problems, important though they are, do not actually address the new reality of product placement. The Commission has endeavoured to find a system for dealing with the simple, rather old-fashioned version of product placement, which involves the placement of commercial products in television programmes and films in return for money or promotional consideration. This form of product placement clearly constitutes a combination of content and advertising but is also relatively benign.

And it is not the form that is now increasingly common in the United States and is soon to arrive in Europe. The new approach to product placement is to integrate advertisements into the story line of film and drama on television and in feature films. For example a character in 'Desperate Housewives' promotes a car to a seventeen year old; a man proposes marriage by hiding the engagement ring inside a biscuit; a man lavishes praise on a brand of women's make up, naming the product on numerous occasions and holding the bottle so that the label fills the screen in order to be read and recognised by the audience.

In this form of product placement whole advertisements are taken out of the advertising slot and combined with the programme. The authority and reputation of the characters are recruited to endorse the product and characters carefully constructed by writers, directors and actors suddenly have to advertise products as part of the story.

How can I explain to you the outrage, which such a proposal causes me and my fellow writers?

Were I to suggest that product placement be considered by the European Parliament itself then the problem would become clearer. Why not include references to relevant products during your speeches at the parliament or in your written reports? This would earn money for the Parliament reducing the burden on the tax payer of paying for your work. A speech on the Common Agricultural Policy, for example, could include some paid references to cattle feed or pesticides. Of course only some speeches would be suitable for product placement. It would be hard to

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imagine that a speech on racism or gender-based violence would be suitable for product placement, so the people organising the placement of products in the speeches of parliamentarians would prefer if you didn't make these speeches – not, of course that they would wish to interfere in any way in your right to make any speech you want – it's just that only the nice speeches would earn the money of the product placement.

You may say politics are not the same as entertainment. Well you see we do not see our work simply as entertainment or as what entertainment has come to mean but as in meaning also education and information - entertainment in the original, Aristotelian sense of the word. And we feel the weight of this responsibility as I am sure you do.

But if the scenario of product placement in speeches still seems too far-fetched, perhaps we could examine the issue in the context of other arts. Couldn't the libretti of operas be re-written to include some product placement? Surely the Ride of the Valkaries could include a reference to low cost airlines; could the Golden arches of McDonalds hamburgers hold up the Parthenon; when Samuel Beckett says 'I can't go on' surely that is a perfect place in the play for an ad for anti depressant drugs?

But there is a problem. If Romeo can call Juliet on his mobile phone, with cheap weekend calls, and thereby save her, this might be good for the phone company but it would somehow reduce the tragic impact to the play's conclusion.

As a writer I want to write good entertaining drama. I don't want to write advertisements. If I did I would have taken up the honourable profession of copywriter. But more to the point, I don't want to be told what I can and cannot include in the drama that I write. It seems obvious to me that advertisers have different needs to writers and audiences. Advertisers will want to put their products in programmes, which reflect well on the products. Safe, anodyne, unchallenging stories will attract product placement, drama dealing with the many difficult issues, which our societies are grappling with, will not be as attractive. Programmes with product placement of the kind just mentioned will have an economic advantage over those that do not.

Again this is not a theoretical objection. Writers and actors in the United States have organised a major campaign to try to ameliorate some of the worst effects of this kind of product placement and quote a depressingly long list of attempts by advertisers trying to change the content of programmes to make them more suitable for the placement of their products.

To sum up the position of the European scriptwriters, we believe that allowing product placement is a Pandora's box whose results will be negative for writers, as well as for consumers and therefore for broadcasters.

Product placement, of the new kind, will change what I can write and will disadvantage some kinds of writing relative to others. My creative writing will have to suit the needs of advertisers rather than the needs of the audience.

The content of European drama will be decided by companies wishing to promote their products and not by Europe's broadcasters, producers and writers.

European audiences including children will have no choice about whether they wish to watch advertisements or not and it will be made difficult for them to differentiate between programmes and advertising.

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Is it really the job of the European Union to force consumers to watch advertisements whether they want to see them or not?

Although the issue of product placement may seem complex in our view the solution is straightforward. We suggest that the inclusion of products into programmes can be divided into three clear categories which can then be separately addressed.

These three categories are :

- The inclusion of products in programmes where there is no payment, monetary or in kind, and the products do not get undue prominence.
- The placement of products in a prominent position so that they can be seen by audiences in return for payment of some kind, usually called product placement.
- The incorporation of the product into the storyline of the programme so that the product appears to be endorsed by the programme or by its characters, now usually known as product integration.

We believe that the sections in the original directive and in the proposed amendments from the Commission should reflect these three categories of product placement and regulate them as follows :

The inclusion of products in programmes, where no payment of any kind took place, should be explicitly allowed; the simple placement of products for money can only be permitted subject to quantitative controls and a system of effective sign-posting; integration of ads for products into the story line of programmes should be emphatically prohibited. We have provided more details of how this approach could be implemented to Ruth Hieronymi.

In conclusion we know that much of television is commercialised and must earn its way from advertising and we understand well that new technology will alter the business models of broadcasters. But television is still the most important and most popular of the carriers of cultural values in our society. We must keep content and advertising separate. The integration of advertising into programmes has become a reality in the United States and there is growing concern that it is damaging the quality of programming. We should not repeat their mistakes. For Europe we should say 'no' to the integration of advertising and content and at least preserve the integrity of our own stories.

Thank you.