



Mrs Viviane Reding
Commissioner for the Information Society and Media
European Commission
B-1049 Brussels

Brussels, December 4, 2009

Dear Commissioner Reding,

Re: Transposition of the Audiovisual Media Services Directive in Spain

We would like to draw your attention to recent developments in Spain pertaining to the transposition of the Audiovisual Media Services Directive, which are a cause of great concern to WFA and its Spanish member association, the Asociación Española de Anunciantes (AEA).

The advertising provisions in draft legislation (Ley General Audiovisual) currently being discussed by the Spanish Parliament threaten to go against the letter and the spirit of the quantitative rules for advertising enshrined in the AVMS Directive, set to apply in all EU Member States as of 19 December 2009.

The draft Spanish law would allow up to 24 minutes of audiovisual commercial communications per hour in Spain, twice the limit set by the AVMS Directive. This is because it establishes a specific category of audiovisual commercial communications – so-called **“telepromotions” (telepromoción)** – which is not part of the definition of TV advertising messages, and is not subject to the maximum 12 minutes of TV advertising per hour. Instead, Article 14 of the draft Spanish law creates a second, additional limit of 12 minutes per hour that only applies to “telepromotions”.

Spain’s non-compliance with the advertising rules of the Television Without Frontiers (TWF) Directive, including the exclusion of “telepromotions” from the hourly limit, is already the subject of an infringement procedure launched by the European Commission and awaiting a European Court of Justice ruling since 27 November 2008.

Despite this legal action and regardless of the Commission’s advice, as set out in the 2004 Interpretative Communication on the provisions of the TWF Directive on televised advertising (2004/C 102/02), the Spanish Government continues to refuse to include “telepromotions” in the hourly limit set in EU law.

Championing effective and responsible advertising is central to WFA’s mission. We believe that the quantitative limits set by the AVMS Directive strike the right balance and we are strongly opposed to national measures that allow exceeding that limit: advertising clutter causes viewers and consumers to ignore and reject advertising, undermining its effectiveness. The promotion of excessive amounts of advertising would also be contrary to our commitment to responsible advertising practice.



WFA and its members, including the Asociación Española de Anunciantes, are actively working to ensure that the Spanish legislation is in line with the AVMS Directive and with the 2004 interpretative Communication. However, our efforts to support a coherent and prompt application of the AVMS Directive across the Union may not suffice to change the Spanish government's position. **We would therefore welcome a strong signal from the Commission to Spanish lawmakers confirming that the draft law would clearly be in breach of European legislation, and would be detrimental to consumers and advertisers alike.**

We remain at your disposal for any further clarifications you may need in this regard and will be happy to assist your Services in dealing with this matter in the most appropriate manner.

We take this opportunity to thank you for the extremely constructive working relationship we have been able to establish with you and your Services during your tenure as Information Society and Media Commissioner and congratulate you on your important new appointment.

We look forward to engaging further with you in your new capacity, in particular regarding the challenges posed by data protection and privacy as they relate to online advertising.

Yours sincerely,

A handwritten signature in blue ink, which appears to read 'Stephan Loerke', is positioned below the text 'Yours sincerely,'.

Stephan Loerke
Managing Director
World Federation of Advertisers (WFA)

Cc: Mr Jean Eric de Cockbourne
Mr Emmanuel Joly
Mrs Monica Aubel