
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Audiovisual Media Services Regulations 2009⁽¹⁾ and 2010⁽²⁾ implement Directive 2007/65 EC of the European Parliament and of the Council amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services⁽³⁾ (“the AVMS Directive”).

The 2009 Regulations inserted Part 4A of the Communications Act 2003 (“the Act”) which provides for the regulatory framework for on-demand programme services.

Regulation 2 amends section 368E(2) of the Act to provide that an on-demand programme service must not contain a video work that the video works authority (the British Board of Film Classification (“BBFC”)) has refused to give a classification certificate under arrangements made pursuant to the Video Recordings Act 1984⁽⁴⁾ or any material that would have been refused such a certificate.

Regulation 2 also amends section 368E(2) of the Act to provide that an on-demand programme service must not contain a video work that the BBFC has given a R18 certificate to, any material that would have received such a certificate or other material that might seriously impair the physical, mental or moral development of persons under the age of 18 unless the material is made available in a manner which secures that such persons will not normally see or hear it.

Regulation 3 amends section 368B(10) of the Act to confer power on OFCOM and the designated body, the Authority for Television On Demand (ATVOD), to supply information to the BBFC for use by the BBFC in connection with the functions of Ofcom and ATVOD as the co-regulators for on-demand programme services.

An impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the website of the Department for Culture, Media and Sport (www.gov.uk/government/organisations/departments-for-culture-media-sport). It is also annexed to the Explanatory Memorandum which is available on the legislation.gov.uk website.

These Regulations were notified in draft to the European Commission in accordance with Directive 98/34/EC⁽⁵⁾ as amended by Directive 98/48/EC⁽⁶⁾.

It is normal practice to make available to Parliament, alongside primary or secondary legislation giving effect to European Directives, a Transposition Note that sets out how the Government will transpose the main elements of those Directives into UK law. However, in the present case a Transposition Note has not been made available. This is because, in the Government’s view, the resources required to produce a Transposition Note are significantly greater than can be justified by the resulting added benefit to the reader. The Transposition Note accompanying the Explanatory Memorandum to the Audiovisual Media Services Regulations 2009 is available from the legislation.gov.uk website.

(1) S.I. 2009/2979.

(2) S.I. 2010/419.

(3) Directive 2007/65 EC OJ No L 332, 18.12.2007, p.27 amending Directive 89/552/EEC OJ No L 298, 17.10.1989, p.23 as amended by Directive 97/36/EC OJ No L 202, 30.7.1997, p.60.

(4) 1984 c.39; this Act was repealed and revived by the Video Recordings Act 2010 (c.1).

(5) Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services OJ No L 24, 21.7.1998, p.37.

(6) Directive 98/48/EC of the European Parliament and of the Council amending Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations OJ No L 217, 5.8.1998, p.18.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.