

EXPLANATORY MEMORANDUM TO
THE AUDIOVISUAL MEDIA SERVICES (CODIFICATION) REGULATIONS 2010
2010 No. 1883

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The instrument amends the Broadcasting Act 1990, the Communications Act 2003, the Gambling Act 2005 and the Wireless Telegraphy Act 2006 to reflect the codification of the EU Directive in the field of audiovisual media services. It does this by substituting references relating to Directive 89/552/EEC with references relating to the Audiovisual Media Services Directive.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Context**

Council Directive 89/552/EEC co-ordinated certain provisions in Member States concerning the pursuit of television broadcasting activities, notably establishing criteria for determining which Member State has jurisdiction over broadcasters established in or using frequencies appertaining to a State in the European Union and setting minimum standards for broadcasting including in relation to advertising. The Directive has been amended by Directive 97/36/EC and Directive 2007/65/EC, which extended its application to video-on-demand services. The codified Directive consolidates Directive 89/552/EEC with the subsequent amending Directives. It revokes these Directives subject to the provision in Article 34 of the codified Directive that that references to the repealed Directive shall be construed as references to the codified Directive. The codified Directive entered into force on 5 May 2010.

5. **Territorial Extent and Application**

This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

As the Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. **Policy background**

The codified Directive is part of the European Commission's programme to consolidate measures and their amendments in order to make European legislation more readable and more accessible as the text is contained in a single coherent

document. It preserves the content of the measures being codified and makes only such formal changes as required by the codification process itself.

8. Consultation outcome

8.1 No consultation has been undertaken because these Regulations do not make any changes of substance.

8.2 The Government held a public consultation during 2008 on proposals for the implementation of Directive 2007/65/EC. The consultation document, the responses and a summary of the responses are available on the Department's website at: www.culture.gov.uk/reference_library/consultations/5309.aspx The main industry and civil society stakeholders were further consulted on a draft version of the Audiovisual Media Services Regulations in spring 2009.

9. Guidance

The principal statutory duties under the Regulations implementing the Directive fall to OFCOM, while much of the day to day work is expected to be undertaken by designated co-regulators, the Advertising Standards Authority in respect of television and video-on-demand advertising, and the Association for Television on Demand, in respect of other on-demand content; OFCOM retains direct regulatory responsibility for broadcast television content. Guidance is available from OFCOM and the designated co-regulators.

10. Impact

Since this instrument merely updates references, a Regulatory Impact Assessment has not been prepared.

11. Regulating small business

The instrument applies to small business but makes no substantive changes to the legislation applicable to them.

12. Monitoring & review

The Government will review the implementation of the Directive in 2012.

13. Contact

Christopher Dawes at the Department for Culture, Media and Sport (Tel: 020 7211 6461 or email chris.dawes@culture.gsi.gov.uk) can answer any queries regarding the instrument.