

GOVERNMENT DECREE AMENDING THE GOVERNMENT DECREE ON TELEVISION AND RADIO OPERATIONS

1 Principal content

The proposal involves amending the Government Decree on Television and Radio Operations (1245/2014). The title of the Decree is to be changed to the Government Decree on Audiovisual Media Services. The new Audiovisual Media Services Directive (EU) 1808/2018¹ requires changes to be made to the provisions in section 1 of the aforementioned Decree concerning the establishment of audiovisual media service providers. Also, a new section 2a is to be added to the Decree concerning how the establishment of a video sharing platform service provider is to be determined in certain situations specified in the provision.

The list of events of major importance to society included in section 6(1) of the Decree will be updated with a view to changing viewer preferences to include women's events corresponding to the men's events already on the list. Moreover, the obligation in section 6(2) to broadcast certain events on the list live will be amended so as to require that the most significant events at the Summer and Winter Olympics are to be broadcast live.

The proposal involves amending the requirement in section 12 of the Decree to provide subtitles for live broadcasts so that this requirement is to apply in full as of 1 January 2021 except for programmes where subtitling is not possible for technical reasons (e.g. regional news).

Other amendments mostly of a technical nature are to be made to the Decree. The proposal involves repealing section 8(2) of the Decree.

2 Present state

2.1 Audiovisuaalisten sisältöpalvelun tarjoajien sijoittautuminen

Sähköisen viestinnän palveluista annetun lain (917/2014) 207 § sisältää säännökset audiovisuaalisen sisältöpalvelun tarjoajan sijoittautumisesta. Audiovisuaalisen sisältöpalvelun tarjoajan katsotaan olevan sijoittautunut Suomeen, jos: 1) toiminnan harjoittajan päätoimipaikka

¹ Directive (EU) 2018/1808 of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

on Suomessa ja ohjelma-aikataulua tai ohjelmaluetteloa koskevat päätökset tehdään Suomessa; taikka 2) toiminnalla on ohjelma-aikataulua tai ohjelmaluetteloa koskevien päätösten, työntekijöiden työskentelypaikan, toiminnan aloittamisen, taloudellisesti merkittävän toiminnan, satelliittilähetyksaseman tai satelliittikapasiteetin taikka muun vastaavan seikan perusteella merkittävä liityntä Suomeen.

Säännöksen 2 momentin mukaan valtioneuvoston asetuksella annetaan tarkemmat säännökset 1 momentin 2 kohdassa tarkoitetun merkittävän liitynnän arvioimisessa huomioon otettavista seikoista.

Uudistetussa audiovisuaalisia sisältöpalveluja koskevassa direktiivissä (AVMS-direktiivissä) sijoittautumisen peruslähtökohta on säilynyt ennallaan eli audiovisuaalisen sisältöpalvelun tarjoajan katsotaan sijoittautuneen jäsenvaltioon, jos sen päätoimipaikka on kyseisessä jäsenvaltiossa ja audiovisuaalisia sisältöpalveluja koskevat päätökset tehdään samassa jäsenvaltiossa. Sijoittautumisen määräytymiseen muissa tilanteissa vaikuttaa muun muassa se, missä valtiossa merkittävä osa ohjelmaan liittyvän audiovisuaalisen mediapalvelun tarjonnan harjoittamiseen osallistuvista työntekijöistä työskentelee. Direktiivin säännökset edellyttävät muutoksia asetuksen 1 §:n 1 momentin 1-3 kohtiin.

2.2 Videonjakoalustapalvelun tarjoajien sijoittautuminen

Uudistetussa AVMS-direktiivissä direktiivin soveltamisala laajenee televisiotoiminnan harjoittajien ja tilausohjelmalvelun tarjoajien ohella videonjakoalustapalvelun tarjoajiin. Videonjakoalustapalvelun tarjoajien sijoittautuminen määräytyy AVMS-direktiivin 28 a artiklan nojalla. Säännökset saatetaan voimaan sähköisen viestinnän palvelulain 226 b §:llä ja asetukseen nyt ehdotettavilla säännöksillä. Lain 226 b §:n 1 momentin mukaan videonjakoalustan tarjoajan katsottaisiin olevan Suomeen sijoittautunut tietoyhteiskunnan palveluja, erityisesti sähköistä kaupankäyntiä, sisämarkkinoilla koskevista tietyistä oikeudellisista näkökohdista annetun Euroopan parlamentin ja neuvoston direktiivin 2000/31/EY ("Direktiivi sähköisestä kaupankäynnistä") 2 artiklan ensimmäisen kohdan c alakohdan mukaisissa tilanteissa. "Sijoittautuneella palvelun tarjoajalla" tarkoitetaan palvelun tarjoajaa, joka tosiasiallisesti harjoittaa taloudellista toimintaa pysyvässä sijoittautumispaikassa määräämättömän ajan.

Lain 226 b §:n 2 momentin mukaan valtioneuvoston asetuksella säädetään videonjakoalustan tarjoajan sijoittautumisesta audiovisuaalisia mediapalveluita koskevan direktiivin (2010/13/EU) 28 a artiklan 2-4 kohdan mukaisissa tilanteissa. Asetuksessa säädetään siten sijoittautumisen määräytymisestä tilanteissa, joissa videonjakoalustan tarjoajalla on jäsenvaltiossa emoyritys tai tytäryritys, tai kyseinen videonjakoalustan tarjoaja on osa yritysryhmää. Lisäksi säännellään menettelystä tilanteessa, jossa jäsenvaltiot eivät pääse yhteisymmärrykseen siitä, mille jäsenvaltiolle lainkäyttövalta kuuluu.

2.3 Events of major importance for society

Background

Under section 212(3) of the Act on Electronic Communications Services, where necessary, it shall be designated by Government Decree which events are considered to be of such importance to society in Finland that their coverage shall be broadcast in the territory of Finland so that a substantial proportion of the public can follow the coverage of the events free via live coverage or deferred coverage. A television broadcast of an event that is of importance to society as referred to in this subsection is deemed to have reached a substantial proportion of the public if 90 per cent of the population are able to receive the broadcast without a separate charge. The purpose of the provision is to ensure that the general public can view events of major importance for society on free television.

This provision is derived from *Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services* (Audiovisual Media Services Directive). Provisions on exclusive rights are given in Article 14 of the Directive. Member States shall immediately notify to the Commission any measures taken or to be taken to restrict the exercising of exclusive rights. The Commission shall verify that such measures are compatible with Union law and communicate them to the other Member States.

The procedure laid out in the Directive was implemented in national legislation in section 212(1) of the Act on Electronic Communications Services, whereby if a television broadcaster has purchased an exclusive right to broadcast an event which one of the Member States of the European Economic Area has included in the list of events of major importance for society, it may not exercise its exclusive right in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following the coverage of the event on free television as provided for by the State in question.

Article 14 of the Audiovisual Media Services Directive (2010/13/EU) stipulates that events of major importance for society shall be broadcast on free television. For the purposes of the Directive, ‘television broadcasting’ or ‘television broadcast’ (i.e. a linear audiovisual media service) means an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule (Article 1(1)e). According to recital 27 in the preamble to the Directive, television broadcasting currently includes, in particular, analogue and digital television, live streaming, webcasting and near-video-on-demand, whereas video-on-demand, for example, is an on-demand audiovisual media service. It is further noted in the preamble to the Act on Electronic Communications Services (HE 221/2013 vp) that television broadcasts constitute linear, simultaneous viewing of programmes by the general public on the basis of a programme schedule; the broadcast technology used, on the other hand, is irrelevant. A television broadcast may thus be broadcast not only via terrestrial television but also for instance via cable, satellite or IPTV.

Events of major importance for society

Section 6 of the Government Decree on Television and Radio Operations (1245/2014) lists the events that are considered to be of major importance for society in Finland. These events include:

- 1) The Summer and Winter Olympic Games organised by the International Olympic Committee;
- 2) The opening match, quarter-finals, semi-finals and final of the men's Football World Cup, organised by FIFA (the Fédération Internationale de Football Association), and the matches of the Finnish team;
- 3) The opening match, quarter-finals, semi-finals and final of the men's European Football Championships, organised by UEFA (Union of European Football Associations), and the matches of the Finnish team;
- 4) The men's Ice Hockey World Championships, organised by the International Ice Hockey Federation (IIHF);
- 5) The Nordic World Ski Championships, organised by the International Ski Federation (FIS);
- 6) The World Championships in Athletics, organised by the International Association of Athletics Federations (IAAF);
- 7) The European Athletics Championships, organised by the European Athletics Association (EAA).

Restricting the exercising of exclusive rights in television broadcasting may be assumed to have an impact on the relationships between television broadcasters, and there is thus a competition policy dimension in this matter. Restricting the exercising of exclusive rights may affect the income gained by the various events – basically, major sporting events – from television rights. It is for this reason that the Commission was given a key role in the system. Member States must notify to the Commission immediately any measures taken or to be taken to restrict the exercising of exclusive rights in television broadcasting. Within a period of 3 months, the Commission shall verify that such measures are compatible with Union law and communicate them to the other Member States.

The list of events of major importance for society to be televised was most recently prepared in 2007. On 25 June 2007, the Commission adopted a decision concerning the compatibility of measures taken in Finland regarding the list of events of major importance for society, as per the Audiovisual Media Services Directive. The Commission ruled that each event listed by Finland for these measures satisfied at least two of the following criteria indicating that the event is of major importance for society:

- (i) a special general resonance within the Member State and not simply a significance to those who ordinarily follow the sport or activity concerned;

- (ii) a generally recognised, distinct cultural importance for the population in the Member State, in particular as a catalyst of cultural identity;
- (iii) involvement of the national team in the event concerned in the context of a competition or tournament of international importance; and
- (iv) the fact that the event has traditionally been broadcast on free television and has commanded large television audiences.

It is now 12 years since the list was drawn up, and it became necessary to revise the list to bring it up to date, for instance in respect of changes in viewer preferences.

Women's ice hockey and football

The list in section 6 of the Decree will be amended to include women's events corresponding to the men's events already on the list. Accordingly, the events to be added are the opening match, quarter-finals, semi-finals and final of the FIFA Women's World Cup, and the matches of the Finnish team; the opening match, quarter-finals, semi-finals and final of the UEFA Women's Cup, and the matches of the Finnish team; and the IIHF World Women's Championship.

The IIHF World Women's Championship has special general resonance in Finland, as per the Commission's criteria, because women play ice hockey in Finland and the event is popular with the general public, not just with those who ordinarily follow the sport. The event also has special resonance because of Finland's culture of equality and non-discrimination. The IIHF World Women's Championship may also be considered to have generally recognised cultural importance in Finland, because the Finnish team has performed well at this international event. Further per the Commission's criteria, the event has traditionally been broadcast on free television and has commanded large television audiences, particularly in recent years. Reports by the Finnish Broadcasting Company (YLE) reveal for instance that in 2019 the IIHF World Women's Championship had a television audience in Finland of 725,000 on average for the final and more than 400,000 on average for the semi-finals. In the preliminary rounds, Finland's games had an audience of 200,000 to 300,000 on average.

The FIFA Women's World Cup and the UEFA Women's Cup can also be considered to have special resonance in Finland. Women play football in Finland, and these events are popular among the general public. The events also have special resonance because of Finland's culture of equality and non-discrimination. The events have traditionally been broadcast on free television and have commanded large audiences. Interest has increased enormously particularly in recent years. For instance, the FIFA Women's World Cup in 2019 had an average audience in Finland of 537,000 for the final and 350,000 to 450,000 for the semi-finals. In 2017, the UEFA Women's Cup had an average audience in Finland of 424,000 for the final and 100,000 to 200,000 for the semi-finals. Also as per the Commission's criteria, the Finnish team has been involved in these events.

Broadcasting the events live

Section 6(2) of the Government Decree on Television and Radio Operations lists the events that shall be broadcast live in their entirety. These include the opening match, quarter-finals, semi-finals and final of the men's FIFA World Cup and the matches of the Finnish team; the opening match, quarter-finals, semi-finals and final of the men's UEFA European Football Championship and the matches of the Finnish team; and the men's IIHF World Championship. This provision is to be amended so that the corresponding women's events shall also be broadcast live in their entirety.

According to section 6(3) of the Decree, the other events referred in section 6(1) may be broadcast live or as deferred coverage in part or in full. What this basically means is that in the case of the Summer and Winter Olympics, for instance, it is sufficient under the current provision to provide deferred coverage of the events. This cannot be considered desirable in view of the social importance of the events and in view of guaranteeing accessibility of information to the general public. It is also part of the nature of sports events that they can be followed live as they happen. If there is no obligation to broadcast an event live, a deferred broadcast can be scheduled for a time at which it is not possible in practical terms for viewers to see the event. It is proposed that the obligation to broadcast the listed events live be clarified to ensure that events of major social significance are accessible by everyone on equal terms.

Given the large number of events at the Olympic Games, it is not possible to broadcast all events live. With regard to the Olympics, section 6(2) of the Decree is to be amended so that the major events at the Summer and Winter Olympics shall be broadcast live in their entirety. Whether a particular Olympic event qualifies as 'major' should be evaluated with reference to the sports and matches described in section 6(1), i.e. women's and men's football finals, games played by Finnish teams, women's and men's ice hockey matches, track and field events and Nordic skiing events.

This amendment will ensure that at least those sports and matches among the events considered to be of major importance for society in the list in section 6(1) that are of interest to the general public will be broadcast live. The provision would leave some margin for discretion for broadcasters as far as evaluating whether an event is a 'major' event. In individual sports, such as track and field sports and skiing, at least those finals where a Finnish participant has a chance of winning an Olympic medal should be considered 'major' events.

Moreover, section 6(3) of the Decree is to be amended so that the other events referred to in section 6(1) (matches in the IIHF World Championship other than the semi-finals and final (i.e. preliminary rounds and playoffs) and the matches of the Finnish team; Nordic skiing world championships; and the European and World Athletics Championships) should principally be broadcast live. Events of major importance for society attract widespread interest in the general public and should be principally broadcast live. For Nordic skiing championships, live coverage is possible, because at these championships the events are scheduled so that there are no overlapping major events. The provision would nevertheless allow the option of deferred

coverage for some events. Every championship includes qualifiers and preliminary rounds that do not necessarily need to be broadcast live.

2.4 Suorien lähetysten tekstitys

Ohjelmistojen saattamisesta näkö- ja kuulorajoitteisten saataville säädetään sähköisen viestinnän palveluista annetun lain (917/2014) 211 §:ssä. Suomen- tai ruotsinkielisiin televisio-ohjelmiin on liitettävä tekstitys sekä muihin ohjelmiin selostus tai palvelu, jossa tekstitetyn ohjelman teksti muutetaan ääneksi (ääni- ja tekstityspalvelu). Erityisryhmien palvelu on Yleisradio Oy:stä annetussa laissa (1380/1993) määritetty yhdeksi julkisen palvelun tehtäväksi. Ääni- ja tekstityspalvelu on tämän vuoksi liitettävä Yleisradio Oy:stä annetussa laissa tarkoitettuihin julkisen palvelun ohjelmistoihin. Julkisen palvelun ohjelmistoihin soveltuu 100 prosentin tekstitysvelvoite. Ääni- ja tekstityspalvelu on liitettävä myös valtakunnallisen ohjelmistotoimiluvan nojalla lähetettäviin useita eri yleisöryhmiä palveleviin ohjelmistoihin. Ääni- ja tekstityspalvelun osuus on useita eri yleisöryhmiä palvelevien ohjelmistojen osalta 75 prosenttia ohjelmista. Ääni- ja tekstityspalvelua ei kuitenkaan tarvitse liittää suorana lähetyksenä lähetettäviin musiikkiesityksiin eikä suorana lähetyksenä lähetettäviin urheiluohjelmiin.

Valtioneuvoston asetuksella voidaan säätää muun muassa ääni- ja tekstityspalvelun teknisestä toteuttamisesta ja lähettämisestä. Asetuksen mukaan ääni- ja tekstityspalvelun osuuksista yksi kolmasosa ohjelmatunneista voidaan toteuttaa televisiotoiminnan harjoittajan tilausohjelmalvelussa (asetuksen 7.2 §).

Televisio- ja radiotoiminta-asetuksen 12 §:n mukaan ohjelmistoon kuuluvien suorien lähetysten osalta tekstityspalvelu voidaan 31. päivään joulukuuta 2020 toimittaa uusintalähetyksen yhteydessä. Määräaika jatkettiin 1. päivästä kesäkuuta 2020 vuoden loppuun säännöstä edellisen kerran päivitettäessä.

Liikenne- ja viestintävirasto valvoo, että televisioyhtiöt täyttävät laissa ja asetuksessa säädettyt ääni- ja tekstityspalveluvelvoitteensa. Velvoitteen toteutumista tarkastellaan vuosittain yhtiöiltä kerättävien tietojen pohjalta. Yleisradion osalta tekstityspalveluihin liittyvät velvoitteet ovat täyttyneet 100 %:sti kaikilla kanavilla vuosina 2017, 2018 ja 2019. Edellä todetun mukaisesti asetuksen 7 §:n 2 momentti mahdollistaa sen, että ääni- ja tekstityspalvelun osuuksista yksi kolmasosa (33,3 %) ohjelmatunneista voidaan toteuttaa televisiotoiminnan harjoittajan tilausohjelmalvelussa. Yleisradio toteutti vuonna 2019 tekstityspalvelun osuuksista kokonaisuudessaan 16 % tilausohjelmalvelussa (Yle Arena). TV 1:n osalta tekstitysvelvoitteen alaisista ohjelmista 32 %:ssa toteutettiin tekstityspalvelu tilausohjelmalvelussa, TV 2:n ja Yle Teeman osalta vastaava luku oli noin 3 % ja Yle Femina osalta noin 9 %. Yleisradio lähetti vuonna 2019 700 tuntia enemmän tekstitettyä suomen- ja ruotsinkielistä televisio-ohjelmistoa kuin vuonna 2018. Liikenne- ja viestintävirasto ei tietojen keruun yhteydessä ole kerännyt tekstityspalvelun osuuksia suorien lähetysten osalta.

Televisio- ja radiotoiminnasta annettuun asetukseen sisältyvän määräajan päätyminen tarkoittaa Yleisradion kohdalla sitä, että siihen tulee myös suorien lähetysten osalta

sovellettavaksi 100 prosentin tekstitysvelvoite. Velvoitteen täysimääräinen toteutuminen ei ole kaikkien suorien lähetysten – kuten alueuutisten - osalta teknisesti mahdollista. Alueuutisten suora ensiesitys televisiossa lähetetään viitenä päivänä viikossa kymmenelle eri alueelle. Usean erisältöisen lähetysten yhtäaikaisen suoratekstityksen tuottaminen ja lähettäminen suorana eri puolelle Suomea ei ole teknisesti mahdollista. Noin 20 prosenttia Yleisradion suorista lähetyksistä koostuu alueuutisista. Myöskään puheentunnistusteknologia ei tällä hetkellä ole vielä niin kehittyntä, että suorien lähetysten tekstitys voitaisiin toteuttaa riittävän laadukkaasti ilman ihmistyövoiman käyttöä.

Asetuksen 12 §:n mukaisen suorien lähetysten tekstitysvollisuuden ehdotetaan tulevan täysimääräisesti sovellettavaksi 1.1.2021 alkaen lukuun ottamatta ohjelmia, joiden tekstitys ei ole teknisesti mahdollista. Tämä tarkoittaisi, että lähtökohtaisesti kaikki suorat lähetykset tulisi tekstittää, lukuun ottamatta ohjelmistoja, joiden tekstittäminen ei ole teknisesti mahdollista (kuten alueuutiset). Lisäksi erikseen laissa on säädetty siitä, että tekstitysvelvoite ei koske musiikki- ja urheiluohjelmia.

2.5 Useita eri yleisöryhmiä palvelevat ohjelmistot

Asetuksen 8 § 1 momentin mukaan ääni- ja tekstityspalvelu on liitettävä valtakunnallisen ohjelmistotoimiluvan nojalla lähetettäviin useita eri yleisöryhmiä palveleviin ohjelmistoihin. Ohjelmistot katsotaan useita eri yleisöryhmiä palveleviksi, jos 1) ne ovat vapaasti vastaanotettavissa; 2) niitä voidaan vastaanottaa valtakunnallisesti; 3) ne sisältävät päivittäin suomen- tai ruotsinkielisiä ohjelmia ja 4) niillä on merkittävä vuosittainen katseluosuus ja vuosittainen keskimääräinen päivätavoitavuus.

Säännöksen 2 momentin mukaan liikenne- ja viestintäministeriö vahvistaa päätöksellään ne 1 momentissa tarkoitetut ohjelmistot, joihin ääni- ja tekstityspalvelu on liitettävä. Kyseinen säännös ehdotetaan kumottavaksi. Asiasta säädetään uudistetun sähköisen viestinnän palvelulain 211 §:n 7 momentissa. Säännöksen mukaan Liikenne- ja viestintäministeriö määrää päätöksellään ne useita yleisöryhmiä palvelevat ohjelmistot, joihin ääni- ja tekstityspalvelu on liitettävä.

3 Aims and key suggestions in the Decree proposal

The list of events of major importance for society in section 6(1) of the Decree is to be updated to include a list of women's events corresponding to the men's events already on the list. This will safeguard the availability of women's sports events of major importance for society on free television.

The provision in section 6(2) of the Decree concerning broadcasting the events live in their entirety is to be amended so that major events at the Summer and Winter Olympics shall also be broadcast live in their entirety. This provision will ensure that the major events of the Olympics will be available to everyone on equal terms. Section 6(3) is further to be amended

so that the other events referred to in section 6(1) shall principally be broadcast live. Events of major importance for society attract widespread interest in the general public and should principally be broadcast live.

Asetuksen 12 §:ään suorien lähetysten tekstitysvollisuuden ehdotetaan tulevan täysimääräisesti sovellettavaksi 1.1.2021 alkaen lukuun ottamatta ohjelmia, joiden tekstitys ei ole teknisesti mahdollista. Säännöksellä edistetään erityisryhmien mahdollisuuksia seurata suorina televisio-ohjelmia.

4 Impacts of the Decree proposal

Impacts on the visibility of events on the list

By established convention, the television rights to the women's events that are to be added to the list are acquired by the Finnish Broadcasting Company (YLE) and have been broadcast on free television to the general public. Therefore, the measures proposed herein will have no impact on the visibility of the newly listed events on national television; the purpose of the provision is to ensure that the events will continue to be broadcast on free television.

Impacts on rightholders and on the markets for broadcasting rights

The measures proposed will have no immediate impact on the status of the original rightholders of the events. According to current legislation, a television broadcaster who obtains exclusive broadcasting rights must not exercise those rights so that a significant percentage of the general public is unable to view the broadcasts on free television. However, the proposed measures may have an indirect impact on the status of the original rightholders in that they may restrict the number of television broadcasters who are able in practice to obtain broadcasting rights for the events on the list. Therefore, the proposed measures may restrict competition regarding the broadcasting rights for those events and thus reduce their financial value. However, the proposed measures do not prohibit advertising in connection with broadcasts of these events, nor do they prohibit commercial operators from obtaining broadcasting rights. The measures do not bias in favour of either public or commercial broadcasters as far as the obtaining of broadcasting rights is concerned. To sum up, the proposed measures will not have a significant impact on the market for broadcasting rights in Finland for the events to be added to the list.

Suorien lähetysten tekstitysvaatimus

Suorien lähetysten tekstitysvaatimuksella ylläpidetään kuulovammaisten edellytyksiä moniarvoiseen viestintään. Palvelu hyödyttää myös viittomakieltä äidinkielenään käyttäviä kuten myös ikäihmisiä sekä suomen kieltä opiskelevia, kuten maahanmuuttajia. Suorien lähetysten tekstitysvaatimus aiheuttaa Yleisradiolle kustannuksia ja lisäresursointitarpeita. Kustannuksia arvioitaessa on kuitenkin otettava huomioon, että erityisryhmien palvelu on yksi Yleisradiolle laissa määrätty julkisen palvelun tehtävä, johon lähtökohtaisesti jo kohdistuu lakisääteinen 100 prosentin tekstitysvaatimus. Yleisradion tilannetta helpotetaan kuitenkin niin,

että esim. alueellisia uutisia, joiden tekstittäminen ei ole teknisesti mahdollista, ei tarvitsisi tekstittää

5 Preparation and statements

The Government Decree proposal was prepared at the Ministry of Transport and Communications.

On 15 May 2020, the Ministry of Transport and Communications requested stakeholders to submit preliminary opinions on how the list of events of major social significance should be updated. A total of 33 statements was received from rightholders, sports organisations, stakeholders and private citizens. A summary of the statements is available in the project window <https://valtioneuvosto.fi/hanke?tunnus=LVM028:00/2020>.

The statements indicated that a review and updating of the list of events of major importance for society was justified. Suggestions were also made as to which events should be added to the list, such as women's ice hockey and football, and the Winter and Summer Paralympics Games. Some respondents viewed the list more critically and noted that the measures taken should not unfoundedly interfere with how the broadcasting rights market operates. Some respondents questioned the need to have such a list at all or were of the opinion that the number of events on the list should be reduced rather than increased. Other respondents noted that it is in the interests of the holders of broadcasting rights to ensure the wide availability of events that are of interest to viewers anyway, whether those events are included in a list of events of major importance for society or not.

Respondents also drew attention to means of broadcasting enabled by technological advancements. Concerning the good Internet coverage throughout Finland, events could be made available to all without any specific obligation of linear television broadcasting. Also, a wide range of means could be accepted for broadcasting, such as satellite, cable, IPTV and video-on-demand.

According to a report commissioned from Sponsor Insight by the Ministry of Transport and Communications, nearly 3.2 million Finns watch sports on free television (free linear television channels and free streaming services). The audience for subscription channels and pay-per-view streaming services numbers about 810,000. So far, not many people watch sports broadcasts online, and online viewing has not replaced traditional linear television. The list of events of major social significance and the possibility of being able to watch these events on free television is considered still to be justified in view of the interests and equal treatment of citizens.

As noted above in section 2.3, the free television broadcasting of events of major importance for society is not limited to a specific transmission technology. In addition to conventional terrestrial television, broadcasts may be aired via cable, satellite or IPTV, for instance.

Adding the Paralympics to the list might be considered to advance equality and positive attitudes to top parasports in society at large. However, at this time it cannot be considered that the

Special Olympics have attained a level of social importance that would warrant being added to the list. According to recital 52 in the preamble to the Audiovisual Media Services Directive (2010/13/EU), in order for an event to be of major importance for society, it should be an outstanding event which is of interest to the general public in the Union or in a given Member State. According to the report commissioned from Sponsor Insight by the Ministry of Transport and Communications, 23% of Finns aged 18 and over are interested in the Paralympics ; the comparable figures for the IIHF World Championship and the FIFA World Cup are 55% and 29%, respectively. The report further found that the top 10 most popular sports among people aged 18 and over are already covered by the list as it now stands. Top parasports rank at no. 21. Audience numbers for the Paralympics as reported by the Finnish Broadcasting Company (YLE) have not shown significant growth in recent years as is the case for the women's events referred to above, and audience numbers cannot be considered large except for some individual broadcasts from the Paralympics . YLE figures show, for instance, that the daily digests of the Paralympics Winter Games in Korea (2013) attracted the highest ratings with a maximum audience of 246,000, the other broadcasts having between 75,000 and 200,000 viewers. At the Paralympics Summer Games in Rio (2016), the maximum audience was 238,000, the average ratings being around 100,000. The average audience for broadcasts from the Paralympics in Sochi (2014) was 174,000.

The purpose of the list of events of major importance for society is not to boost the popularity and social importance of any particular event. Instead, to be included an event must already have attained a status important enough to warrant being added to the list. The Paralympics are traditionally broadcast on free television by YLE, and thanks to its widespread availability for free these events have every possibility to increase their popularity among the public at large.

It was also not suggested that any other events be added to the list. It is feasible to keep the list of specific events in the Government Decree limited. Measures taken pursuant to the Decree should not interfere in how the sports event broadcasting rights market operates to an unfounded and unreasonable extent. For all other sports events, it is considered appropriate to allow them to develop on the terms of the market. The list can, of course, be further reviewed in the future.

The Ministry of Transport and Communications circulated the Decree amendment proposal for comment on x xxx 2020. The deadline for returning statements was x xxxx 2020. A total of x statements was received.

A summary of the statements is available in the project window.

6 Content of the Decree proposal

Asetuksen nimi muutetaan valtioneuvoston asetukseksi audiovisuaalisista palveluista. Uusi nimi vastaa paremmin asetuksen soveltamisalaan kuuluvia palveluita kattaen niin audiovisuaaliset sisältöpalvelut eli sekä televisio- että tilausohjelmalvelut kuin myös videonjakoalustapalvelut.

Detailed rationale

1 § Audiovisuaalisen sisältöpalvelun tarjoajan sijoittautuminen

Asetuksen 1 § sisältää säännökset tilanteista, joissa audiovisuaalisen sisältöpalvelun tarjoajalla katsotaan olevan sellainen merkittävä liityntä Suomeen, että sen voidaan katsoa olevan sijoittautunut Suomeen. Säännöksen kohdat 1-3 muutetaan vastaamaan direktiivillä (EU) 2018/1808 muutetun audiovisuaalisia mediapalveluja koskevan direktiivin 2010/13/EU 2 artiklan 3 kohdan b alakohtaa.

2a § Videonjakoalustapalvelun tarjoajan sijoittautuminen

Pykälä sisältää säännökset videonjakoalustapalvelun tarjoajan sijoittautumisesta. Sen lisäksi, mitä sähköisen viestinnän palveluista annetun lain 226 b §:ssä säädetään, videonjakoalustan tarjoajan voidaan katsoa olevan sijoittautunut Suomeen, jos se kuuluu kirjanpitolain (1336/1997) 1 luvun 6 §:n mukaiseen konserniin ja videonjakoalustan tarjoajan emoyritys tai tytäryritys on sijoittautunut Suomeen. Jos emoyritys tai tytäryritykset ovat sijoittautuneet useaan Euroopan talousalueeseen kuuluvaan valtioon, videonjakoalustan tarjoajan katsotaan sijoittautuneen Suomeen, jos emoyritys on sijoittautunut Suomeen.

Säännöksen 2 momentin mukaan, mikäli videonjakoalustan tarjoajan emoyritys ei ole sijoittautunut Euroopan talousalueeseen kuuluvaan valtioon, katsotaan videonjakoalustan tarjoajan sijoittautuneen Suomeen, jos sen tytäryritys on sijoittautunut Suomeen. Säännöksen 3 momentti sisältää sijoittautumisen määräytymisessä tilanteissa, joissa on useita tytäryrityksiä ja kukin niistä on sijoittautunut Euroopan talousalueeseen kuuluviin eri valtioihin. Videonjakoalustan tarjoajan katsotaan tällöin olevan sijoittautunut Suomeen, jos jokin sen tytäryrityksistä aloitti toimintansa Suomessa, ja se harjoittaa edelleen taloudellista toimintaa Suomessa. Säännöksellä saatetaan voimaan AVMS-direktiivin 28a artiklan 2-4 kohdat.

6 § Events of major importance for society

The list of events of major importance for society in section 6(1) of the Decree will be amended as follows: to paragraph 2, add the opening match, quarter-finals, semi-finals and final of the FIFA Women's World Cup, and the matches of the Finnish team; to paragraph 3, add the opening match, quarter-finals, semi-finals and final of the UEFA Women's Cup, and the matches of the Finnish team; and to paragraph 4, add the IIHF World Women's Championship.

Section 6(2) of the Decree lists the events that shall be broadcast live in their entirety. These include the opening match, quarter-finals, semi-finals and final of the men's FIFA World Cup and the matches of the Finnish team; the opening match, quarter-finals, semi-finals and final of the men's UEFA European Football Championship and the matches of the Finnish team; and the men's IIHF World Championship. This provision is to be amended so that the corresponding women's events shall also be broadcast live in their entirety.

Also, section 6(2) of the Decree is to be amended so that the major events at the Summer and Winter Olympics shall be broadcast live in their entirety. Whether a particular Olympic event qualifies as 'major' should be evaluated with reference to the sports and matches described in

section 6(1), i.e. women's and men's football finals, games played by Finnish teams, women's and men's ice hockey matches, track and field events and Nordic skiing events. This amendment will ensure that at least those sports and matches among the events considered to be of major importance for society in the list in section 6(1) that are of interest to the general public will be broadcast live. The provision would leave some margin for discretion for broadcasters as far as evaluating whether an event is a 'major' event. In individual sports, such as track and field sports and skiing, at least those finals where a Finnish participant has a chance of winning an Olympic medal should be considered 'major' events.

Moreover, section 6(3) of the Decree is to be amended so that the other events referred to in section 6(1) (matches in the IIHF World Championship other than the semi-finals and final (i.e. preliminary rounds and playoffs) and the matches of the Finnish team; Nordic skiing world championships; and the European and World Athletics Championships) should principally be broadcast live. Events of major importance for society attract widespread interest in the general public and should be principally broadcast live. For Nordic skiing championships, live coverage is possible, because at these championships the events are scheduled so that there are no overlapping major events. The provision would nevertheless allow the option of deferred coverage for some events. Every championship includes qualifiers and preliminary rounds that do not necessarily need to be broadcast live.

9 § Ääni- ja tekstityspalvelun toteuttamisesta aiheutuvat ohjelmatuntikohtainen viitekustannus

Asetuksen 9 § sisältää säännökset ääni- ja tekstityspalvelun toteuttamisesta aiheutuvasta ohjelmatuntikohtaisesta laskennallisesta viitekustannuksesta, joka on äänen liittämistä ohjelmistoihin 70 euroa ja tekstityksen liittämistä suomen- ja ruotsinkielisiin ohjelmiin 440 euroa. Säännökseen tehdään lähinnä teknisluonteinen tarkistus siten, että siitä poistetaan viittaus vuosilukuihin.

Entry into force

This section is to provide for the entry of the Decree into force. It is proposed that the Decree enter into force on 1 January 2021, but the provisions will not apply retroactively and therefore do not concern the exercising of broadcasting rights for events to be added to the list if those rights were obtained before the date of entry into force.

7 Submission

The Ministry of Transport and Communications submits that the Government adopt this Government Decree Amending the Government Decree on Television and Radio Operations.

8 Entry into force

The Decree is intended to enter into force on 1 January 2021.