



HANS-BREDOW-INSTITUT
for Media Research at the University of Hamburg



Technical Briefing

Co-Regulation Measures in the Media Sector

Brussels, 6 February 2007

Study commissioned by the European Commission,
Directorate General Information Society and Media, Unit A1
(Tender DG EAC 03/04)

The Study's Background, Objectives and Methodology

■ Background

- Recent development: art. 3 sec. 3 „Audiovisual Media Services Directive“
- In a broader sense: Co-regulation as a means to achieve better regulation

■ Objectives

- A broad picture of co-regulatory measures taken to date in the media sector
- Assessment of the efficiency and effectiveness of co-regulatory systems
- Identification of legal obstacles when it comes to the implementation of co-regulatory models, focusing on European Law
- Outlook and suggestions concerning implementation of co-regulatory measures in the EU Member States

■ Methodology

- Document research
- Interviews with experts from within and without the systems analyzed

Approach of Identifying Co-Regulatory Systems to be Examined

- **Overview of all regulatory activities** for all media services within the scope of this study and for all included policy objectives
- **Setting aside** all systems where **no co-existence of state and non-state regulation** could be found for the respective media and the relevant policy objectives
- Developing a **working definition of co-regulation** and applying this definition to the remaining regulatory systems

Understanding Co-Regulation: The Study's Working Definition

I. Non-state component:

- 1. Creation of specific **organisations, rules or processes**
- 2. to **influence decisions**
- 3. performed by the **addressees** themselves.

II. Relationship between non-state and state regulation:

- 1. Achievement of **public policy goals**
- 2. **Legal link**
- 3. **Discretionary power** of the non-state regulatory system
- 4. **State uses regulatory resources**

Co-Regulatory Systems Identified and Analyzed

- **19 systems in 9 EU Member States**
 - Austria, France, Germany, Greece, Italy, Netherlands, Portugal, Slovenia, United Kingdom
 - Virtually all media (broadcasting being the most frequent) except press regulation
 - Main objectives: protection of minors, advertising regulation
- **4 selected systems in 4 non-European countries**
 - Australia, Canada, Malaysia, South Africa
 - Protection of minors

General Findings

- **No reason to believe that co-regulatory models are not sufficiently effective to implement European Directives.**
- **Regulatory culture (in types of media and in countries) matters**
- **Openness and transparency as vital requirements for assuring democratic standards. By many of systems analyzed in the study those requirements are not fulfilled.**
- **Effectiveness is not simply based on co-regulation as such, but depends on concrete adjustments within the chosen approach
→ Need for constant evaluation**
- **Co-regulation can meet requirements of ECHR/EU law**

Impact Assessment

“Best Practices” Identified

- **NL: NICAM (Protection of minors)**
 - Strong incentives for participation
 - Real division of work
 - State involvement via financing and evaluation
- **UK: Television Advertising (Content) Regulation**
 - Contracting-out to industry body, bases: acts, order, MoU
 - Code certification; enforcement/sanctions; back-stop power
- **DE: FSF/FSM/FSK/USK (Protection of minors)**
 - Different systems for different media; varying degrees of state involvement; margin of appreciation respected
 - State regulation to be applied in case a provider (TV and Internet) is not aligned to a co-reg body.

Recommendation for Designing an Effective Co-Regulatory Model

- **Sufficient incentives for industry participation**
- **Proportionate and deterrent means of enforcement**
- **Certification of codes or organisations by state regulator seems to ensure effective backstop powers and thus enforcement of rules**



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**Thanks a lot for your
attention!**

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