

ANNEX 3: METHODOLOGY

1. TEMPLATE

PARENTAL CONTROL OF BROADCASTING, FILM, AUDIOVISUAL AND ON-LINE SERVICES IN THE EUROPEAN UNION

I. BACKGROUND OVERVIEW FOR THE STUDY

The European Commission Directorate-General X (Information, Communication, Culture and Audiovisual Media) has commissioned the Programme in Comparative Media Law and Policy (PCMLP) of the University of Oxford to conduct a study on the parental control of television broadcasting in the European Union. This study is mandated by Article 22b of the Television Without Frontiers Directive (97/36/EC) of the European Parliament and Council of 30 June 1997. This study will provide a horizontal examination of the television broadcasting, film, video, and on-line services in the European Union in consonance with the Council Recommendation on the Protection of Minors and Human Dignity in the Audiovisual and Information Services (adopted 28 May 1998).

Objectives and Main Aims of the Study

The main objective of the study is to present an assessment of the advantages and disadvantages of introducing different measures at EU level in order to enhance the control parents or guardians may exercise over the programmes that minors view.

Starting with the devices, rating systems and family viewing policies currently in use in the Member States of the European Union the study will focus on three possible regulatory steps to be taken by the EU:

- requiring new television sets and/or computers to be equipped with technical devices for parental control (such as the v-chip)
- setting up appropriate rating systems¹ for film, video, television, and on-line services

¹ The terms “rating system” and “labelling system” are interchangeable for the purposes of this template.

- encouraging family television viewing and on-line services policies as well as other educational and awareness measures

The study will also examine the prospects for establishing voluntary national frameworks for self-regulation and assessment methodologies co-ordinated at European level and as a complement to the ultimate regulatory framework.

Devices, Ratings, Impact and Harmonisation:

Main elements to the study are:

- An analysis of the different technical devices to assist in parental control of television broadcasting services and on-line services². This will include descriptions of different devices, their cost, availability, and infrastructure needed to introduce each device.
- A corresponding analysis of potential ratings or labelling systems to work in conjunction with or in the place of technical devices. This analysis of television and on-line services will be joined with a comparative analysis of rating systems used in film and video.
- An assessment of the efficacy of each of the actual and/or foreseeable protective measure regimes of technical devices and rating systems. This assessment shall consider questions of cost, availability, compatibility, introduction, and European harmonisation.
- An assessment of the economic impact of each of the different protective measures.
- A comparison of the regulatory contexts for film, video, television and on-line services concerning the protection of minors from harmful content. This comparison will comport with the European Commission-mandated “horizontal treatment” of the protection issue, contributing to the establishment of shared definitions and applications for classification systems for programmes and content in each of the four media sectors concerned.

² “On-line services” encompasses computer networks.

The study will take into account the experience gained in this field in Europe and elsewhere (particularly Canada, United States and Japan), as well as the views of broadcasters, producers, educationalists, media specialists and associations.

Country Reports

In order to assess the advantages and disadvantages of introducing new control measures throughout the EU, the PCMLP is conducting a comparative study of the regulatory frameworks, technological capabilities, cultural contexts and relevant policy concerns within each of the 15 Member States of the EU. The following is a brief outline of the information and issues that shall be contained in each country report:

(1) Existing context and framework for control of film, video, television and on-line services.

Each report will provide a description of the existing regulatory structures for film, video, television (terrestrial, cable, satellite and digital) and on-line services. The report will examine the implementation of Article 22 of the Television Without Frontiers directive in the respective Member State.

The report will also discuss the cultural context and expectations as well as legal provisions concerning ratings and warnings and will provide the country's history regarding the protection of minors from harmful content (e.g. ratings or warnings concerning content). The report will also address pre-existing broadcasting norms in the Member State concerning the presentation of warnings or ratings.

(2) Rating systems

For each of the four media, the report will provide a specific identification of the type of ratings provider (producer self-rating, industry, non-governmental third party or government). The report will characterise, inter alia, the constitution, structure, area of competence, efficiency and capacity of the given ratings providers and rating systems.

(3) Technical devices

The report will discuss the technical considerations of implementation for each type of technical device for television and on-line services. The report will discuss the effectiveness, (in both quantitative³ and qualitative⁴ terms) of both available and potentially available technical devices.

(4) Educational and awareness-raising policies

The report will examine existing and proposed educational policies and policies to encourage family viewing. They will discuss how these policies may both function (a) as an alternative to more intrusive policies and technologies and (b) as a complement to the deployment of technological devices. This discussion will contribute to the development of a typology and methodology of family viewing policies in a horizontal way across film, video, television and on-line services.

(5) Costs analysis and Economic Impact

The report will assess the associated costs for implementation of each possible technical device. They will also assess the economic impact relating to the deployment of such technical devices. This assessment will contemplate these impacts in terms of the deployment of regulatory regimes as well as in terms of regulatory obligations upon manufacturers to install particular devices.

The following Template shall be informed by the preceding Background Overview. All aspects of the template shall be understood in light of this overview and any uncertainty or ambiguity shall be clarified by reference to this overview. Any remaining questions shall be clarified via direct inquiries made to the Programme in Comparative Media Law & Policy (PCMLP).

All researchers participating in any Country Report shall make themselves readily available to the PCMLP for clarification and discussion of the related research for a period of three months after the submission of the given Country Report.

³ E.g. technical reliability, frequency of breakdowns.

⁴ E.g. rate of utilisation and satisfaction of parents and children, ease and comfort of utilisation.

II. TEMPLATE

I. FILM INDUSTRY

1. Legal system

1.1.1 Setting aside questions specifically concerning rating systems for the section immediately below, provide a background overview of the legal framework regarding the film industry. Discuss relevant legal, historical and cultural considerations concerning content regulation. Identify formal provisions that control the film industry (e.g. legislation, regulations, administrative provisions, case law), describe the scope of coverage of the regulatory scheme (i.e. does it apply to all cinema available in the country; is it mandatory or optional?), and identify current proposals for change to the existing regulatory structures and system for the film industry. Discuss the social, economic or policy issues that appear to be driving the reform effort(s).

2. Rating system

Identify the group or entity responsible for the rating system for this medium. Describe and evaluate this ratings provider. Apply Annex I and only the relevant Annex from among the following sub-sections of Annex I: Annex A: Producer Self-rating, Annex B: Industry, Annex C: Third Party or Annex D Government.

II. VIDEO INDUSTRY

1. Legal system

2.1.1 Given the diverse nature of the video industry⁵ identify any distinctions in legal or regulatory treatment within the industry as a whole. In the case of such a distinction, apply separately the following analysis to each distinct element.

2.1.2 Discuss relevant legal, historical and cultural considerations concerning content regulation. Identify the formal provisions that control the video industry (e.g. legislation, regulations, administrative provisions, case law); identify the scope of coverage of the regulatory scheme (i.e. does it apply to all video industry

⁵ Video industry refers to videocassettes as well as off-line newer services such as laser-video disks, DVD, and games software or leisure software, etc.

products; is it mandatory or optional?); identify what systems are used (e.g. ratings, bans, etc.) and describe how they operate; identify any current proposals for change to the existing regulatory structures and system for the video industry. Discuss the social, economic or policy issues driving the reform effort(s).

2. Rating system

Identify the group or entity responsible for the rating system for this medium. Describe and evaluate this ratings provider. Apply Annex I and only the relevant Annex from among the following sub-sections of Annex I.: Annex A: Producer Self-rating, Annex B: Industry, Annex C: Third Party or Annex D Government.

III. TELEVISION

1. Legal system

3.1.1 Provide a background overview of the regulation of this medium. Discuss relevant legal, historical and cultural considerations. Provide this discussion under the following three categories. Account for differences between digital and analogue, narrowcasting and broadcasting, public and private broadcasters.

- i) terrestrial
- ii) cable and
- iii) satellite

For each of these three categories, provide the following discussions:

3.1.2 Identify the formal provisions that control television broadcasting (e.g. legislation, regulations, administrative provisions, and case law). Identify the scope of coverage of the regulatory scheme (i.e. does it apply to all television broadcasting; is it mandatory or optional?).

3.1.3 Setting aside questions specifically concerning rating systems for the section immediately below, identify what systems are used (e.g. ratings, bans, watersheds, filtering, channelling and locking etc.) and describe how they operate.

3.1.4 Identify any current proposals for change to the existing regulatory structures and system for television broadcasting. Discuss the social, economic or

policy issues driving the reform effort(s). Please devote adequate attention to the regulation of digital television, identifying current and foreseeable developments as well as distinctions between the legal treatment of digital as opposed to analogue television.

2. Rating system

Cultural expectations regarding ratings, acoustic warnings and symbols

3.2.1 Identify whether the Member State has a history of ratings or warnings concerning content. Refer to this history in anticipating the cultural expectations that will likely follow from the deployment of Article 22.3.

3.2.2 Discuss any pre-existing broadcasting norms in the Member State concerning the presentation of warnings or ratings.

3.2.3 Anticipate and explain the level of acceptance in the Member State to the "presence of a visual symbol throughout [the] duration" of a programme as stated in Article 22.3.

3.2.4 Anticipate whether an "acoustic warning" as the alternative in Article 22.3 to an omnipresent visual symbol will prompt a desire to also provide a visual indication of ratings before and after the presentation of content.

Ratings provider

Identify the group or entity responsible for the rating system for this medium. Describe and evaluate this ratings provider. Apply Annex I and only the relevant Annex from among the following sub-sections of Annex I.: Annex A: Producer Self-rating, Annex B: Industry, Annex C: Third Party or Annex D Government.

3. Technical devices

3.3.1 Identify all technical devices to assist in parental control of television broadcasting currently used in the Member State.

3.3.2 Provide technical specifications for each of these devices. Explain how they are fitted to televisions or computers. Identify any other modalities (e.g.

ratings, software, etc.) necessary in order to properly use a given technical device.

3.3.3 For each of these devices and their required complements (e.g. ratings, software, etc.) identify the cost in the Member State for installation and deployment of the technical device. In this treatment, appreciate the differences between mandatory and voluntary deployment.

3.3.4 Assess the effectiveness in quantitative⁶ and qualitative⁷ terms of the given technical device as experienced in the Member State. Discuss what technological devices would be best suited for this country.

4. Introduction Scenarios for technical devices

3.4.1 Discuss the possible scenarios for introduction of the technical device in conjunction with existing or proposed

- i) labelling systems,
- ii) regulatory structures and
- iii) frameworks for self-regulation.

Present this discussion with an appreciation of the Member State's context within the European Union. Provide this discussion by addressing the European Commission's newly adopted horizontal approach across media to the protection of children from harmful content.

3.4.2 Account for the anticipated costs attached to each of the possible scenarios contemplated in the above question (3.4.1).

3.4.3 Discuss the possible development of new technical devices and their anticipated consequences.

5. Alternatives to technologies

⁶ E.g. technical reliability, frequency of breakdowns.

⁷ E.g. rate of utilisation and satisfaction of parents and children, ease and comfort of utilisation.

3.5.1 Discuss the range of potentially available educational and awareness-raising measures to assist parental control in media use. Identify which strategies, if any, have gained substantial support popularly or among policy makers.

3.5.2 To the extent possible, determine the significance of the aid such alternatives provide parents in exercising control over what programmes their children view.

3.5.3 Assess the likelihood of adequately providing parents the use of these measures. Discuss the anticipated impediments to providing parents this access.

IV. ON-LINE SERVICES

1. Legal system

4.1.1 Setting aside questions specifically concerning rating systems for the section immediately below, provide a background overview of the regulation of this medium. Discuss relevant legal, historical and cultural considerations. Identify the formal provisions that control on-line services (e.g. legislation, regulations, administrative provisions, and case law).

4.1.2 What is the scope of coverage of the regulatory scheme (i.e. does it apply to all on-line services; is it mandatory or optional?).

4.1.3 Identify what systems are used (e.g. (ratings, bans, watersheds, filtering, channelling and locking etc.) and describe how they operate.

4.1.4 Identify any current proposals for change to the existing regulatory structures and system for on-line services. Discuss the social, economic or policy issues driving the reform effort(s).

2. Rating system

Identify the group or entity responsible for the rating system for this medium. Describe and evaluate this ratings provider. Apply Annex I and only the relevant Annex from among the

following sub-sections of Annex I.: Annex A: Producer Self-rating, Annex B: Industry, Annex C: Third Party or Annex D Government.

3. Technical devices

4.3.1. Identify all technical devices to assist in parental control of on-line services environments currently used in the Member State.

4.3.2. Provide technical specifications for each of these devices. Explain how they are fitted to televisions or computers.

4.3.3. Identify any other modalities (e.g. ratings, software, etc.) necessary in order to properly use a given technical device.

4.3.4. For each of these devices and their required complements (e.g. ratings, software, etc.) identify the cost in the Member State for installation and deployment of the technical device. In this treatment, appreciate the differences between mandatory and voluntary deployment.

4.3.5. Assess the effectiveness in both quantitative⁸ and qualitative⁹ terms of the given technical device as experienced in the Member State. Effectiveness shall be measured with reference to the objectives pursued by manufacturers and promoters of the technical measures. Divergent positions concerning these objectives shall also be presented in this discussion. Where available, base this assessment upon existing studies or research.

4. Introduction Scenarios for technical devices

4.4.1 Discuss the possible scenarios for introduction of the technical device in conjunction with existing or proposed

- i) labelling systems,

⁸ E.g. technical reliability, frequency of breakdowns.

⁹ E.g. rate of utilisation and satisfaction of parents and children, ease and comfort of utilisation.

- ii) regulatory structures and
- iii) frameworks for self-regulation.

Present this discussion with an appreciation of the Member State's context within the European Union. Provide this discussion by addressing the European Commission's newly adopted horizontal approach across media to the protection of children from harmful content.

Account for the anticipated costs attached to each of the possible scenarios contemplated in the above question (4.4.1).

Discuss the possible development of new technical devices and their ramifications.

5. Alternatives to technologies

4.5.1 Discuss the range of potentially available educational and awareness-raising measures to assist parental control in use of on-line services. Identify which strategies, if any, have gained substantial support among policy makers or popularly.

4.5.2 To the extent possible, determine the significance of the aid these alternatives provide parents in exercising control over what content their children view.

4.5.3 Assess the likelihood of adequately providing parents access to these measures. Discuss the anticipated impediments to providing parents this access.

V. PROSPECTS FOR HORIZONTAL TREATMENT OF THE PROTECTION OF MINORS ACROSS MEDIA

5.1 Identify and discuss the system of technical devices, ratings and regulation that is most likely to be able to cover all four of the designated media. If you do not view any system as having this capacity, explain the fundamental limitations of these systems in this regard.

VI. ARTICLE 22

While addressing the questions in this section, please refer to Annex II (Article 22 of The

Television Without Frontiers Directive (97/36/EC)).

6.1 State the Member State's standards pursuant to Article 22.1. Identify how these have been articulated (case law, legislation, administrative measures, etc.). Identify whether prior decency standards in the Member State bear on the formulation of this standard.

6.2 State the Member State's standards pursuant to Article 22.2. Identify how these have been articulated (case law, legislation, administrative measures, etc.) Identify whether prior decency standards in the Member State bear on the formulation of this standard.

6.3 Identify whether the Member State uses "watersheds" or "harbours" – designated time periods, for example from midnight to 6:00 am, when harmful content (pursuant to Article 22.2) may be aired. State the times of any such periods throughout the Member State.

6.4 If the Member State has not established standards clearly pursuant to either Article 22.1 or 22.2, then provide the Member State's pre-existing standards regarding decency on television and for film and video. Identify how these have been articulated (case law, legislation, administrative measures, etc.).

6.5 Identify whether the Member State has "more detailed or stricter rules" (Article 3.1, 97/36/EC) concerning content harmful to minors.

6.6 Identify whether comparable standards exist within the Member State for illegal and harmful content on on-line services. If so, identify whether rules exist within the Member State to prevent illegal and harmful content on on-line services.

VII. PARENTAL OBLIGATIONS, CHILDREN'S RIGHTS, RULES AND NORMS

7.1 Provide an essential overview of relevant elements of family law in the Member State, identifying children's rights and parental obligations as transcribed into law. Discuss the cultural norms regarding parental obligations and children's

rights in the Member State. Compare these legal rules with the cultural norms.

7.2 Characterise the range of cultural norms within the Member State concerning the exposure of children to gratuitous violence and pornography in the media. In this characterisation, discuss the common or popular constructions of the terms “gratuitous violence” and “pornography” or their equivalents as well as “physical, mental and moral development of minors”. Include in this discussion whether these terms have been transcribed into law or articulated at another governmental or administrative level.

VIII. REVIEW OF EXISTING STUDIES

The Country Reports should synthesise any existing research concerning harmful content, the use of technologies to assist parental control, and encouraging family viewing policies. Provide citations and bibliographic information for each study or research effort mentioned. Provide as attachments the pertinent elements of all studies examined in the Country Report that would not be readily accessible from an on-line source.

8.1 Identify any relevant studies in the Member State concerning the

- i) availability of parental control technologies or rating systems,
- ii) rate of use, ease of use, or parent satisfaction of parental control technologies, and
- iii) cost associated with deployment of the technologies.

8.2 Identify and discuss any relevant studies in the Member State concerning the affects on children of gratuitous violence or pornography.

8.3 Identify any studies in the Member State concerning the use and efficacy of educational or awareness-raising measures to be used in replacement of or in conjunction with parental control technologies.

IX. GENERAL OVERVIEW

The following section requires the researcher to provide her observations and assessments. This section seeks a more global or comprehensive evaluation of the

issue of parental control of harmful content and thus requires the researcher to broadly apply her expertise and familiarity with the related questions.

9.1 Provide your perception of what developments concerning parental control are foreseeable in the Member State.

9.2 Provide your assessments of the following elements of the parental control issue:

- i) prospects for enhancing parental control via measures taken at European level, and
- ii) deployment of a horizontal approach to the question of harmful content.

9.3 Provide your analysis of the following spheres of discourse concerning parental control of harmful content. In your analyses, identify the leaders of these discussions:

- i) policy circles (e.g. government, regulators, administrative agencies),
- ii) civil sphere (e.g. popular discourse, interest groups),
- iii) media (e.g. press, television), and
- iv) industry (e.g. producers of film, of television, broadcasters, on-line service providers)

ANNEX I: RATING SYSTEMS

Prior to applying the applicable sub-section of this Annex, (Annex A, Annex B, Annex C, or Annex D) provide the following three distinctions for the given rating system.

1. Descriptive or evaluative.

Determine and explain whether the rating system is *descriptive* or *evaluative*.

A descriptive system¹⁰ is one that provides a description of the content of the labelled media and can provide a set of indicators about different content categories.

An evaluative system¹¹ is one that makes a judgement about content using a standard of harmfulness and typically provides a single rating indicator, usually based upon age.

Keeping in mind that no system is purely descriptive, please provide a detailed explanation of the basis for your determination.

2. Deterministic or non-deterministic

Determine and explain whether the rating system applies a *deterministic* or a *non-deterministic* rating process.

A deterministic rating process is based upon some objective methodology in which the final rating is the result of following the methodology.

A non-deterministic rating process is based upon the opinions of a rating body.

Keeping in mind that no system is purely deterministic, please provide a detailed explanation of the basis for your determination.

3. Voluntary or mandatory

¹⁰ The Recreational Software Advisory Council (RSAC) provides an example of a descriptive system. Content producers answer a detailed questionnaire about their content with respect to violence, nudity, sex and language.

¹¹ The Motion Picture Association of America (MPAA) provides an example of an evaluative system. The ratings ascribed by the MPAA do not describe the content of the film, but what age group may see the film

Determine and explain whether the rating system is *voluntary* or *mandatory*.

A system is voluntary if the content producer is free to choose to rate or have product rated.

A system is mandatory if the content producer is required to rate or to have product rated by some other agency.

Annex A: Producer self-rating

A.1 Identify the producers and describe their capacity¹² to provide ratings for the content they produce.

A.2 Characterise the structure, rationale and efficiency of any of this industry's existing rating system(s).

A.3 Discuss the feasibility of this system providing ratings for the volume of existing and future production in this medium.

A.4 Identify the volume of programming this system can be anticipated to accommodate for this medium.

A.5 Identify and discuss whether this rating system is applied to advertisements. If a separate rating system exists for advertisements, apply Annex I and the applicable sub-section.

¹² Capacity, for the purpose of this template, refers to the (a) legal capacity and (b) organisational and economic capacity to manage the ratings responsibility for the volume of output.

Annex B: Industry

B.1 Identify the industry board(s) for this medium.

B.2 For each industry board,

- a) characterise the board's express purpose and its competence¹³
- b) state the age and size.
- c) characterise its capacity¹⁴ to provide ratings.
- d) characterise the structure, substance, and define the content of this rating system.
- e) assess the feasibility of this system providing ratings for the volume of existing and future programming and content.
- f) identify the maximum volume of programming and content this system can be anticipated to accommodate. Explain.

B.3 Identify whether there is an international industry board with a presence in the Member State.

B.4 If so,

- a) characterise this presence and corresponding function of the board.
- b) identify whom exactly the industry board represents.
- c) identify the express purpose and function of the industry board.
- d) state the board's age, size and date of first presence in the Member State.
- e) characterise the industry board's capacity¹⁵ to provide ratings.
- f) characterise the structure, substance, and define the content of this rating system.
- g) assess the feasibility of this system providing ratings for the volume of existing and future programming and content.

¹³ Identify the addressees of decisions, the legal nature of the ratings provider's decisions vis-à-vis the addressees, and characterise the compulsory level of this decision. Determine whether ratings decisions are binding or not binding instruments. In the case of binding instruments, identify the available enforcement methods to ensure proper application and/or to punish addressees that fail to comply with a given decision.

¹⁴ See footnote 12

¹⁵ See footnote 12

h) identify the maximum volume of programming and content this system can be anticipated to accommodate. Explain.

B.5 Identify and discuss whether this rating system is applied to advertisements. If a separate rating system exists for advertisements, apply Annex I and the applicable sub-section.

Annex C: Third party (Commercial or Non-commercial)

C.1 Identify whether any third party rating entity exists in the Member State for this medium.

C.2 Describe their function and competencies¹⁶.

C.3 State how long the rating entity has performed this function.

C.4 Identify and explain the rating systems under consideration in the Member State. Determine if these systems are State-specific or designed to provide classification at European level.

C.5 Characterise the current capacity¹⁷ for this rating system. Assess the feasibility of this system of providing ratings for the volume of existing and future content.

C.6 Provide the reasonable expectations for expansion of this system in order to accommodate greater volume.

C.7 Assess the maximum volume of programming that this system can be anticipated to accommodate.

C.8 Identify and discuss whether this rating system is applied to advertisements. If a separate rating system exists for advertisements, apply Annex I and the applicable sub-section.

¹⁶ See footnote 13.

¹⁷ See footnote 12.

Annex D: Government

D.1 Identify whether any governmental rating entities for this medium exist in the Member State.

D.2 Describe their function and competencies¹⁸.

D.3 State how long the rating entity has performed this function.

D.4 Identify and explain the rating systems under consideration in the Member State. Determine if these systems are State-specific or designed to provide classification at the European level.

D.5 Characterise the current capacity¹⁹ for this rating system. Assess the feasibility of this system of providing ratings for the volume of existing and future television programming.

D.6 If presently there are no such entities in the Member State, assess the likelihood for formation of such entities.

D.7 Assess the maximum volume of programming this system can be anticipated to accommodate.

D.8 Identify and discuss whether this rating system is applied to advertisements. If a separate rating system exists for advertisements, apply Annex I and the applicable sub-section.

¹⁸ See footnote 197.

¹⁹ See footnote 196.

ANNEX II

Taken from Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 Amending Council Directive 89/552/EEC on the Co-ordination of Certain Provisions Laid Down by Law, Regulation or Administrative Action in Member States concerning the Pursuit of Television Broadcasting Activities

CHAPTER V**Protection of minors and public order****Article 22**

1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.
2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.
3. Furthermore, when such programmes are broadcast in unencoded form Member States shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration.

Article 22a

Member States shall ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality.

Article 22b

1. The Commission shall attach particular importance to application of this Chapter in the report provided for in Article 26.

2. The Commission shall within one year from the date of publication of this directive, in liaison with the competent Member State authorities, carry out an investigation of the possible advantages and drawbacks of further measures with a view to facilitating the control exercised by parents or guardians over the programmes that minors may watch. This study shall consider, inter alia, the desirability of:
- the requirement for new television sets to be equipped with a technical device enabling parents or guardians to filter out certain programmes;
 - the setting up of appropriate rating systems,
 - encouraging family viewing policies and other educational and awareness measures,
 - taking into account experience gained in this field in Europe and elsewhere as well as the views of interested parties such as broadcasters, producers, educationalists, media specialists and relevant associations.

2. COUNTRY REPORTS

LIST OF EXPERTS

Austria - Dr Albrecht Haller

Dr Haller works as an associate in the Vienna office of the international law firm, 'Bruckhaus Westrick Heller Loeber'. He also lectures in copyright law at the University of Vienna. Dr Haller received a Master of Law and Doctor of Law Degree from the University of Vienna and a Master of Arts Degree from the University of Music and Dramatic Arts in Vienna. He has produced numerous publications on copyright and media law, including notes on relevant developments in Austria for IRIS.

Belgium & Luxembourg - Mr Serge Robillard

Serge Robillard is a legal expert based in Brussels. He joined the Research Department of the European Institute for the Media in November 1991. In 1997, he published a study on «Television and Culture: Policies and Regulation in Europe» with Emmanuelle Machet. A study on Convergence, including analysis of the protection of minors within the Information Society, will be soon published. He has made several evaluations of programming aspects for broadcasters and media authorities. He has also made several presentations on legal/regulatory issues and was involved in the European Platform of Regulatory Authorities (EPRA). He has published a study on regulatory bodies (London 1995) and contributed to several research projects. From 1990 to 1991 he worked as a legal expert at the Ministry of the French Speaking Community of Belgium where he was in charge of media expertise. He was also an Associate to the Belgium delegation within the Council of the European Union.

Denmark - Dr Brigitte Tufte & Dr Thomas Tufte (mother-son-team)

Brigitte Tufte is Associate Professor, Dr.ped. at the Royal Danish School of Educational Studies. She has conducted research since the early 1980s, taught and published extensively within the field of children & media, media education and youth culture. She is currently Section President of the International Association of Mass Communication Research's Section on Media Education and project leader on a 5-year research project on girls' and boys' everyday life and media culture.

Thomas Tufte is Assistant Research Professor, PhD at the Department of Film

and Media Studies, University of Copenhagen. He gained his PhD in a media ethnographical analysis of TV fiction in Brazil. He provided the Danish country report for the European research project, “Proximity Television and the Information Society in Europe”, and is currently finalising a 3-year research project on globalisation and new technology. He is also an associate member of the ORBICOM communication network and co-editor of the Danish Journal of Communication (Medienkultur).

Finland - Dr Anu Mustonen

Dr Mustonen is currently Head of PR and Information at the University of Jyväskylä, Finland. With a degree in journalism and a PhD in Psychology, she has been engaged as a reporter for the national papers, 'Karjalan Maa' and 'Outokummun Seutu' since 1987, and is a researcher for the Finnish Broadcasting Company and a researcher/lecturer in the Department of Psychology at the University of Jyväskylä. She has produced numerous publications investigating the relationship between the issues of violence in the media, children and psychology and has since 1995 been the reviewer for the Journal of Broadcasting & Electronic Media.

France - Mr Frederic Pinard

Mr Pinard is a lawyer specialising in Media, Public and European Law. In 1995 he obtained a post-graduate diploma in Economic and Communication law, focusing on Media law and Economics, encompassing traditional media and new media and, more generally the information society. In a professional capacity he has worked as a consultant, legal adviser, editor of a newsletter and researcher/writer. He has worked for the Council of Europe, the Eurimages Fund and the European Audiovisual Observatory.

Germany - Dr Runar Woldt & Emanuelle Machet

Dr Runar Woldt started his professional career as a researcher and lecturer at the University of Stuttgart-Hohenheim, Department of Journalism. He was then an editor of 'Media Perspektiven', a German media journal published by the public broadcasting organisation ARD (1986-91). Since December 1991, he has been Head of Research at the European Institute for the Media (EIM), based in

Düsseldorf. Runar Woldt's main research interests include the socio-economic developments of the media in Europe, European media policies, and the impact of regulation and market structures on media performance. He has produced numerous publications on a variety of related subjects.

Emmanuelle Machet is a researcher at the European Institute for the Media (EIM) based in Düsseldorf. She has a degree in media law from the University of Poitiers and has carried out post-graduate work in European studies at the University of Aachen. She is the secretary of the European Platform of Regulatory Authorities (EPRA) and has recently published together with Serge Robillard 'Television and Culture: Policies and Regulations in Europe'.

Greece - Dr Petros Iosifides

Dr Ioifides is currently lecturer in Mass Communications at the University of North London, with responsibilities including the design and teaching of MA courses, "Principles in Mass Communications" and "Communications and New Technologies". His research duties include production of papers and proposals in the areas of media market structure, technological convergence and audiovisual content regulation, with a particular interest in the protection of minors. He has participated in the EC project examining the EU multimedia market in the past.

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Marie McGonagle is a lecturer in law at the National University of Ireland, Galway, where she specialises in Media and Entertainment Law, and also teaches Family Law. She has lectured and published widely on Media Law issues, has been involved in the training of journalists in both the print and audiovisual media, has acted as consultant to media and journalists' organisations on legal issues and matters of law reform. In 1996 she was appointed to the Irish Government's Commission on the Future of the Newspaper Industry. She has also participated in a number of seminars and projects for Article 19, the Council of Europe, and other national and international organisations.

Italy - Ms Cristina Cabella

Cristina Cabella received a degree from the University of Milan School of Law in

1988 and a LL.M from the University of London, Queen Mary and Westfield College in 1990. Thereafter she was Associate Researcher in Intellectual Property at the University of London, Queen Mary and Westfield College from 1990 to 1991. She has practised in the Intellectual Property department of two major London City firms: Lovell White Durrant (1990/1991) and Freshfields (1998). Her practice areas are intellectual property and information technology, Internet and digital media. She advises among others a number of US software firms including Seagate, Aim-Tech, Security Dynamics Technologies, NETg, Engineering Animation, on Shrink-wrap Click-wrap software license agreements, software translation agreements, software escrow agreements.

Netherlands - Dr Jo Groebel

Dr Groebel is chairman of the Communications Psychology Department at the University of Utrecht. He is also the founder and director of the Post-Graduate School of Media Management and Development – University of Utrecht and Visiting Professor at the University of California Los Angeles (UCLA). He is a member of the German UNESCO-Commission, the Media Commission of the German BundesPräsident and the “Mediaraad”, advisory committee to the Dutch Government.

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Dr Sousa is currently Deputy Head of the Department of Communications Science at the University of Minho, where she lectures on “International Information and Media Sociology”. She has previously worked as a journalist for the national newspaper, “Jornal de Notícias”, on national and international political issues.

Manuel Pinto is Vice-President of the Institute of Child Studies. He wrote his thesis about “Television in Children's Everyday Life”. As former head of the Education and Culture Section of “Jornal de Notícias”, he has extensive experience as a journalist in educational issues.

Spain - Dr Alberto Perez Gomez

Dr Perez Gomez is a Lecturer in European and Constitutional Law at the University of Alcala (Madrid). His main field of research is Communications Law

and he has published several articles in this area. He is the Spanish correspondent for IRIS, the European Audiovisual Observatory's monthly magazine, the Institute für Europäisches Medienrecht de Amsterdam (EMR) and the Institute for Information Law of Amsterdam. He has participated in several research projects related to the media, and is also a practising lawyer. He previously researched the legal protection of minors in Spain when preparing a joint publication about Information Law in Spain.

Sweden - Dr Jonas Wall

Jonas Wall is a lecturer at the University College of Gävle. In 1979 he initiated one of the first Swedish university courses in the field of mass communication. He has conducted extensive research on the role of the mass media in the development of adolescents and wrote one of the first Swedish books in this field. In 1992 the Swedish government appointed him as a film censor, and since 1996 he has taught courses in mass communication theory and methodology at the University College of Gävle, Sweden. He has published several books on theme of children and the mass media.

UK - Mr Stefaan Verhulst

Stefaan G. Verhulst is the Programme Director of the Programme in Comparative Media Law and Policy at the Centre for Socio-Legal Studies, Wolfson College, Oxford University. He was previously senior researcher for IMPS at the School of Law, University of Glasgow. In addition, Mr. Verhulst serves as an Expert Consultant for the Council of Europe, a Legal Correspondent for the European Audiovisual Observatory and is the co-editor of the International Journal of Communications Law and Policy and the Post Soviet Media Law and Policy Newsletter.

3. QUESTIONNAIRE

QUESTIONNAIRE

BROADCASTERS

Have you implemented a parental control system(s)?

1. YES

Is it your own system? (If so please answer Section **1A** of the Questionnaire)

Is it a system determined by a third party? (If so please answer Section **1B** of the Questionnaire)

2. NO (If so please answer Section **1C** of the Questionnaire)

All respondents should answer Sections 2, 3 and 4 of the Questionnaire

Please fill in the section below so that we can send you the final report of the

Title:
Name:
Company:
Address:
.....
Telephone:
Fax:
e-mail:

study.

Which industry/group of interested parties do you represent? Please tick

- a) Digital/analogue broadcasting entity
- b) Film/video distributor
- c) Internet service provider
- d) Trade association
- e) Other (please specify)

Please return this form with your questionnaire. Thank you.

Section 1A

BROADCASTERS WHO HAVE IMPLEMENTED OWN PARENTAL CONTROL SYSTEM

1. Current system**1.1. Implementation**

1.1.1 When did you implement the parental control system(s) currently in use?

1.1.2 Is it a voluntary or mandatory system? If the system is mandatory, please describe the nature of the legal instrument mandating it, its issuing body, and discuss its specific requirements.

1.1.3 Which parties were involved in the conception and implementation of the actual system(s) (viewers' and family associations, producers, authors, other broadcasters, government authorities, etc.)?

1.1.4 Which cultural, legal, and technical considerations have been taken into account?

1.2. Description – Functioning - Evaluation

1.2.1 To which content (e.g. programs, films, news, advertisements, chat room, multimedia content...etc.) do you apply your rating/labelling system?

1.2.2 How is your system represented (e.g. acoustic warning, visual symbol, etc.)?

1.2.3 What is the qualitative nature of the system? Identify whether the system is (a) evaluative or descriptive,²⁰ and (b) deterministic or non-deterministic.²¹ State the criteria used.

²⁰ A descriptive system is one which provides a description of the content of the labelled media and can provide a set of indicators about different content categories. (The 'Recreational Software Advisory Council' – RSAC- **USA**) provides an example of a descriptive system. Content producers answer a detailed questionnaire about their content with respect to violence, nudity, sex and language.) An evaluative system is one which makes a judgement about content using a standard of harmfulness and typically provides a single rating indicator, usually based upon age. (The 'Motion Picture Association of America' – MPAA-USA) provides an example of an evaluative system. The ratings

1.2.4 Is a specific body responsible for the classification? Is it an internal or external body? What is the composition of this body? Is this body bound by any legal instruments? If so, identify the kind of instruments as well as the corresponding competence of this body.

1.2.5 Do you exercise control upon the classification decisions issued by the body?

1.2.6 Apart from these systems, what other measures have you provided in order to facilitate parental control?

1.2.7 How do you evaluate the effectiveness of the parental control systems (when, how, by whom, etc.)? How do you adapt the systems to the change of practises?

1.3. Appreciation

1.3.1 What specific technical difficulties have you met in implementing your rating/labelling system?

1.3.2 What is the cost imposed by this system? Who bears this cost? What is the impact of the rating/labelling system on your budget?

1.3.3 Has this rating/labelling system had an appreciable impact on the value of your existing catalogue of works?

1.3.4 Has this rating/labelling system had an impact on the audience and thereby on your programming strategy? Discuss any studies you have conducted on this issue.

ascribed by the MPAA do not describe the content of the film, but what age group may see the film. The 'Entertainment Software Rating Board' (ESRB-USA) provides a combination of content descriptors and age classification.)

²¹ A deterministic rating process is based upon some objective methodology in which the final rating is the result of following the methodology. A non-deterministic rating process is based upon the opinions of a rating body. Keeping in mind that no system is purely deterministic, please provide a detailed explanation of the basis for your determination.

1.3.5 Has this rating/labelling system had an impact on sponsors, advertisers and thereby on your programming strategy? Discuss any studies you have conducted on this issue. What is your marketing strategy concerning the ratings? Where are the rating/labelling systems published (specialised magazines, general newspaper, hotlines, etc.)?

1.3.6 Has this rating/labelling system had an impact on your image vis-à-vis viewers either as individuals or as parents? Discuss any studies you have conducted on this issue.

1.3.7 Has this rating/labelling system created any tension with producers and authors of the work labelled? How has this tension been resolved?

Section 1B

BROADCASTERS APPLYING PARENTAL CONTROL SYSTEMS DECIDED BY
A THIRD PARTY**1. Current system****1.1 Implementation**

1.1.1 When was the parental control system(s) currently in use implemented?

1.1.2 Which body issued the current system? (Broadcaster, Regulatory Body...)

1.1.3 Is it a voluntary or mandatory system? If the system is mandatory, please describe the nature of the legal instrument mandating it, and discuss its specific requirements.

1.1.4 Which parties were involved in the conception and implementation of the actual system(s)? (viewers' and family associations, producers, authors, other broadcasters, government authorities, etc.)

1.1.5 Which cultural, legal, and technical considerations have been taken into account?

1.2 Description – Functioning - Evaluation

1.2.1 To which content (e.g. programs, films, news, advertisements, chat rooms, multimedia content, etc.) do you apply the rating/labelling system?

1.2.2 How is the system represented (e.g. acoustic warning, visual symbol, etc.)?

1.2.3 What is the qualitative nature of the system? Identify whether the system is (a) evaluative or descriptive,²² and (b) deterministic or non-deterministic.²³ State the criteria used.

²² A descriptive system is one which provides a description of the content of the labelled media and can provide a set of indicators about different content categories. (The 'Recreational Software Advisory Council' - RSAC) provides an example of a descriptive system. Content producers answer a detailed questionnaire about their content with respect to violence, nudity, sex and language.)

An evaluative system is one which makes a judgement about content using a standard of harmfulness and typically provides a single rating indicator, usually based upon age. (The 'Motion Picture

1.2.4 Are you responsible for the classification of the programs you broadcast?

If not, which entity decides the classification? How? If yes, how do you proceed? Is a specific body responsible for the classification? Is it an internal or external body? What is the composition of this body? Is this body bound by any legal instruments? If so, identify the kind of instruments as well as the corresponding competence of this body?

1.2.5 Do you exercise control upon the classification decisions issued by the body?

1.2.6 Apart from these systems, what other measures have you provided in order to facilitate parental control?

1.2.7 How do you make the evaluation of the parental control systems (when, how, by who)? How do you adapt the systems to the change of practises?

1.3 Appreciation

1.3.1 What specific technical difficulties have you met in complying with the rating/labelling system?

1.3.2 What is the cost imposed by this system? Who bears this cost? What is the impact of the rating/labelling system on your budget?

1.3.3 Has this rating/labelling system had an appreciable impact on the value of your existing catalogue of works?

1.3.4 Has this rating/labelling system had an impact on the audience and thereby on your programming strategy? Discuss any studies you have conducted on this issue.

Association of America²³ - MPAA provides an example of an evaluative system. The ratings ascribed by the MPAA do not describe the content of the film, but what age group may see the film. The 'Entertainment Software Rating Board' - ESRB-USA - provides a combination of content descriptors and age classification.)

²³ A deterministic rating process is based upon some objective methodology in which the final rating is the result of following the methodology. A non-deterministic rating process is based upon the opinions

1.3.5 Has this rating/labelling system had an impact on sponsors, advertisers and thereby on your programming strategy? Discuss any studies you have conducted on this issue. What is your marketing strategy concerning the ratings? Where are the rating/labelling systems published (specialised magazines, general newspaper, hotlines, etc.)

1.3.6 Has this rating/labelling system had an impact on your image vis-à-vis viewers either as individuals or as parents? Discuss any studies you have conducted on this issue.

1.3.7 Has this rating/labelling system created any tension with producers and authors of the work labelled? How has this tension been resolved?

1.3.8 What is your assessment of the role of the Regulatory Body/Industry Board?

of a rating body. Keeping in mind that no system is purely deterministic, please provide a detailed explanation of the basis for your determination.

Section 1C

**BROADCASTERS WHO HAVE NOT IMPLEMENTED A PARENTAL CONTROL
SYSTEM**

1. Current system

Please give your reasons for not having implemented a parental control system to date.

Sections 2, 3 & 4

ALL BROADCASTERS

2. New technologies

2.1 What is your evaluation of the recent technical devices (V-chip, EPG, PICS, blocking, filtering systems)? Are there any technical, financial or cultural obstacles to the implementation of such devices or further parental control measures generally? What would be the foreseeable consequences for your company in both financial and technical terms?

2.2 Would you voluntarily implement a technical device regime for your programming? What do you believe is the proper role of the regulatory body in this context?

2.3 If you are a film or video distributor, or a broadcaster, have you developed any systems specifically in response to the development of digital technologies for the television environment? If you are an on-line content provider, have you developed any systems specifically in response to recent technological developments in the on-line environment? If so, please discuss.

2.4 If you have not developed any systems specifically for these technological developments, what are your views concerning facilitating parental control in the context of these new technologies? Do you anticipate these new modes permitting you to improve information either for parents or for the protection of minors? Through what types of measures and/or devices may this be achieved?

3. Horizontal and European approach

3.1 If a horizontal²⁴ approach is not already in place, do you consider a horizontal approach as appropriate, feasible, or efficient?

3.2 In your view is there a need for European co-operation or harmonisation on this issue? What kind of commonalities at EU level is needed (age classification, etc.)?

4. Conclusions

4.1 Is there any discussion concerning the improvement of the actual system, the implementation of a new system or further measures such as the V-chip? In what environments? Who are the parties involved? Is the actual stage of these discussions preliminary, intermediate or advanced?

4.2 Do you think that your industry is culturally, structurally, technically, or economically prepared to make this new step? Do you think that your industry is capable of collaborating on a high level with the whole industry to implement necessary accompanying measures for these new devices such as a common rating/labelling system? Do you think that your actual rating/labelling system would be adaptable to these new requirements?

Please feel free to add any information that seems relevant for our understanding
and the aim of the study

²⁴ This idea of horizontal treatment concerning parental control is derived from the Council Recommendation on the Protection of Minors and Human Dignity in the Audiovisual and Information Services (adopted 28 May 1998). Here, the term horizontal encompasses any rating or labelling system capable of covering content in the four media sectors designated in this Recommendation (e.g. film, video, TV, and on-line services), as well as a device employing such a system in television and personal computer environments.

4. CONTACT LIST

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13.	INTEREST GROUPSG	Ms Margaretha Mazura	European Multimedia Forum	BELGIUM
14.	PRODUCERS	Mr Jorge Arque Ferrari	CEPI	SPAIN
15.	PRODUCERS	Mr Robert Strasser	CEPI	GERMANY
16.	PRODUCERS	Mr Gérard Gabella	SPA (Software Publishers Association)	USA
17.	PRODUCERS	Mr Jean-Paul Commin	IVF	BELGIUM
18.	BROADCASTER	Mr David Wood	I.T.U./R	SWITZERLAND