

Audiovisual regulation and convergence

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Convergence of media and content

- ◆ Media: Television, Internet, Mobile phone
- ◆ Digital interactive television
- ◆ Internet/mobile Phone: audio-visual content

Applicable regulation

- ◆ **Vertical medium specific regulation**
- ◆ Television : Directive TV without Frontiers
- ◆ Chapter IV.
- ◆ Rules on separation/identification of advertising
- ◆ Rules on the amount of advertising
- ◆ Rules on scheduling of advertising
- ◆ Advertising restrictions for certain products
- ◆ Rules on advertising addressed to minors
- ◆ Rules on political, ideological and religious advertising
- ◆ Rules on sponsoring, tele-shopping, self-promotion
- ◆ Prohibition of certain forms of advertising (ex surreptitious advertising)

General regulation

- ◆ General rules on consumer protection (including misleading and comparative advertising)
- ◆ Regulation on privacy and data protection
- ◆ Regulation on distance sale or e-commerce
- ◆ General and product specific self-regulatory codes

Possibilities

- ◆ 1. Extending the Directive TV without Frontiers to other media/ services
- ◆ 2. Elaboration of the existing separate vertical regulatory instruments
- ◆ 3. Introducing of new horizontal content regulation (eventually in combination with traditional separate vertical regulation)

Possibility I

- ◆ Extending the Directive TV without Frontiers as such to services other than TV broadcasting is not possible : rules on the amount and scheduling of advertising are adapted to the specific structure of classic TV-programming
- ◆ Exception: radio
- ◆ TV programs distributed on the Internet :
- ◆ legal definition of TV broadcasting
- ◆ in practice: is there really a need to regulate this practice ?

Possibility II

- ◆ Phased approach : regular monitoring of the evolution on the market and adaptation of exiting media specific vertical regulation
- ◆ Role of national competent media authorities
- ◆ Directive TV without Frontiers: adapting definitions, introducing new advertising techniques ...

Possibility III

- ◆ Harmonized “content regulation” :
- ◆ Coherent legal framework
- ◆ No discrimination between media
- ◆ Technologically neutral

Model III continued

- ◆ Industry sectors start from different levels
- ◆ Global or international nature of the Internet
- ◆ Competence problems

Combination with media specific regulation

- ◆ Combination with vertical media specific regulation:
- ◆ TV: rules on the amount and scheduling of advertising
- ◆ 1 legal instrument with sub-divisions or separate specific laws

Conclusion

- ◆ Difficult to foresee how convergence will further develop and at which speed consumers will adopt new “converged” media services
- ◆ Currently: vertical media specific regulation is still appropriate and applied in an efficient way
- ◆ Dangerous to regulate techniques that just start to develop
- ◆ Second model seems most appropriate at this moment (third model can be introduced at a later stage)

Conclusion continued

- ◆ Adopting new rules/adapting existing regulation:
- ◆ regulation should be limited to the minimum necessary to meet the defined objectives (what can be managed by self-regulation should be left to the industry)
- ◆ regulation should increase legal certainty, or at least preserve it
- ◆ it must be possible to apply and enforce regulation in an efficient way

Conclusion continued

- ◆ European regulation: principle of subsidiarity
- ◆ Main Objective : find a right balance between private market freedom, effective competition, optimal economical development of the European media industry and public interests such as consumer protection (including protection of minors), safeguarding of pluralism and promotion of cultural diversity.

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