

Submission of Comments from Versatel Deutschland to the Issues Papers of the commission regarding the revision of the TVWF Directive

Issues Paper: Right to Information and Right to Short Reporting

I. General remarks

Versatel as a telecommunications network operator faces a new regulatory framework due to innovations and integration of voice-, video- and data services and thus, the development of triple play products. Legal and planning uncertainties result from these innovations. Therefore, Versatel welcomes the opportunity to comment on the issues addressed.

Versatel generally favours a liberal approach to the future regulation of audiovisual services which supports and fosters the development of new innovative communication services and products. It supports the Commission in its commitment, to maintain a solid, forward-looking regulatory framework. Versatel would like to stress that it is crucial for the telecommunications network operators not to extend the narrow regime of the current TVWF Directive indiscriminately to new Triple Play services. In regards to the fact that those services are still in the phase of development at present time, and it is hard to predict as to what extent they will succeed on the market, their successful development may be seriously endangered by an over regulation. In Versatels view the need for an in-depth-regulation of innovative services should be assessed carefully on the basis of market implementation and development.

II. Events of major importance

Versatel considers the provisions of Art. 3 a TVWF Directive as very useful. Telecommunications network operators, which plan to implement Triple Play services and establish themselves with the provision of content, are dependent on the right of short reporting about events of major importance that applies to the content providers. Otherwise, the operators would be constrained to cooperate with all license holders for certain events. With focus on the German market, no obligation for the content providers exists to contract with the network operators. Therefore, assuming that the telecommunications network operators are subject to the must-carry obligations, they are unable to fulfil these obligations due to the fact that content providers do not intend to cooperate with the network operators by reason of limited subscribers or regional networks. This aggravates the compilation of attractive services. Thus, the operators rely on the right of short reporting for content providers in order to offer a broad scope of information to their customers.

These remarks become even more important in case that the operators would be considered as providers of linear-audiovisual services.

With focus on the deliberations to harmonize the concept of “a substantial proportion of the public”, Versatel agrees that the concept could not be harmonized. Considering the intention to foster cultural diversity within the Member States, it should be left to them to decide on the criteria.

On the issue of adopting a challengeable European Commission act, Versatel regards the procedure to be established as burdensome, given the fact that the question of interpretation would have to be settled by the court of justice. This could lead to legal uncertainties during the transitional period. It is of major importance for the providers of Triple Play services, that they will be enabled to have a reliable framework at the time of market entry and for their future business strategies.

III. Right to information

Versatel generally supports the demand to coordinate rules for making short reports from programmes produced by a broadcaster in one Member State available to a broadcaster in another Member State under its right to information. However, the establishment of a trans-frontier access to programme extracts for use in information programmes and the specification of the applicable conditions in terms of the events to be covered, the beneficiaries, the duration and destination of the extracts might be too narrow and thus, over-regulative. Versatel believes that a provision in the future directive in regards to non-discriminatory access to short reports for use in information programmes will be sufficient. It is necessary, to implement a balanced regulation which grants non-discriminatory access to the programme extracts without restricting the license holders.

Berlin, September 2, 2005

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