

**COVER PAGE FOR THE SUBMISSION OF COMMENTS TO THE ISSUES PAPERS OF THE
COMMISSION REGARDING THE REVISION OF THE TVWF DIRECTIVE**

In order to facilitate the consultation process you are kindly requested to fill out the following form:

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Subject:

(please tick **one** appropriate box)

- ☐ 1. Material and Territorial Competence
- ☐ 2. Rights to Information and Short Extracts
- ☐ 3. Cultural Diversity and Promotion of European and Independent Audiovisual Production
- ☐ 4. Commercial Communications
- ☒ 5. Media Pluralism
- ☐ 6. Protection of Minors and Human Dignity, Right of Reply

The European Commission invites you to submit your observations on these issues papers by **5 September 2005**. Please submit your comments in a generally readable electronic format. Please submit a **separate document** for each issues paper you would like to comment on. All submissions will be published on the Commission's website if not requested otherwise. If you would like your contribution to be treated confidentially, please indicate this at the top of the first page of your submission. Should you want to add a cover letter please do so in a separate document. In case your comments exceed four pages please start your submission with an **executive summary**. All submissions should be mailed to the functional mailbox of the Audiovisual Policy Unit of the Directorate-General for Information Society and Media: avpolicy@cec.eu.int.

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

Issues Paper: Media Pluralism

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. Application of Merger and/or specific media ownership rules

On the issue of media pluralism Versatel would like to submit some comments on the application of merger and/specific media ownership rules. Though the commission stresses that the European competition law cannot replace or does not intend national media concentration controls and measures to ensure media pluralism, Versatel would like to point out the legal uncertainties which appear to telecommunications network operators that intend to offer Triple Play services on the German market.

Neither German broadcasting law nor telecommunications or antitrust law contain any restrictions for offering telecommunications and content services within one and the same company. However, the fact that telecommunications network providers are as a rule monopolists within their area of service (single-network-dominance) has led to decisions of the antitrust administration (Bundeskartellamt) in defining narrow (infrastructure) markets for the supply of broadcasting services which may have effects on the operators business models.

Therefore, to prevent legal uncertainties Versatel would appreciate the establishment of an Observatory focusing on media markets and concentration. However, it should be considered to implement guidelines which clarify that telecommunications network operators will not be subject to cross-ownership restrictions only due to the fact that they offer Triple Play services.

Berlin, September 2, 2005

Versatel Deutschland Holding GmbH

Jan Mönikes, Regulatory Counsel

Syndikus Versatel Deutschland