

Governance/Improvement of Collective Rights Management in the EU

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Broadcasting Union
promoting public service media

Governance alone is not sufficient!

Mere supervision rules cannot achieve their intended purpose,
unless they are accompanied by rules

- **to modernize and enhance the efficiency of collective rights management in general and**
- **to secure a one-stop-shop system for rights administered by collecting societies**



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New EU framework

The new framework should include rules for (at least):

- Country of origin/applicable law
- Same retransmission scheme for all platforms
- Use of music in avm services / one-stop-shop
- Extended collective licensing – the Nordic model
- Special case: PSBs' archives
- Supervision of collecting societies

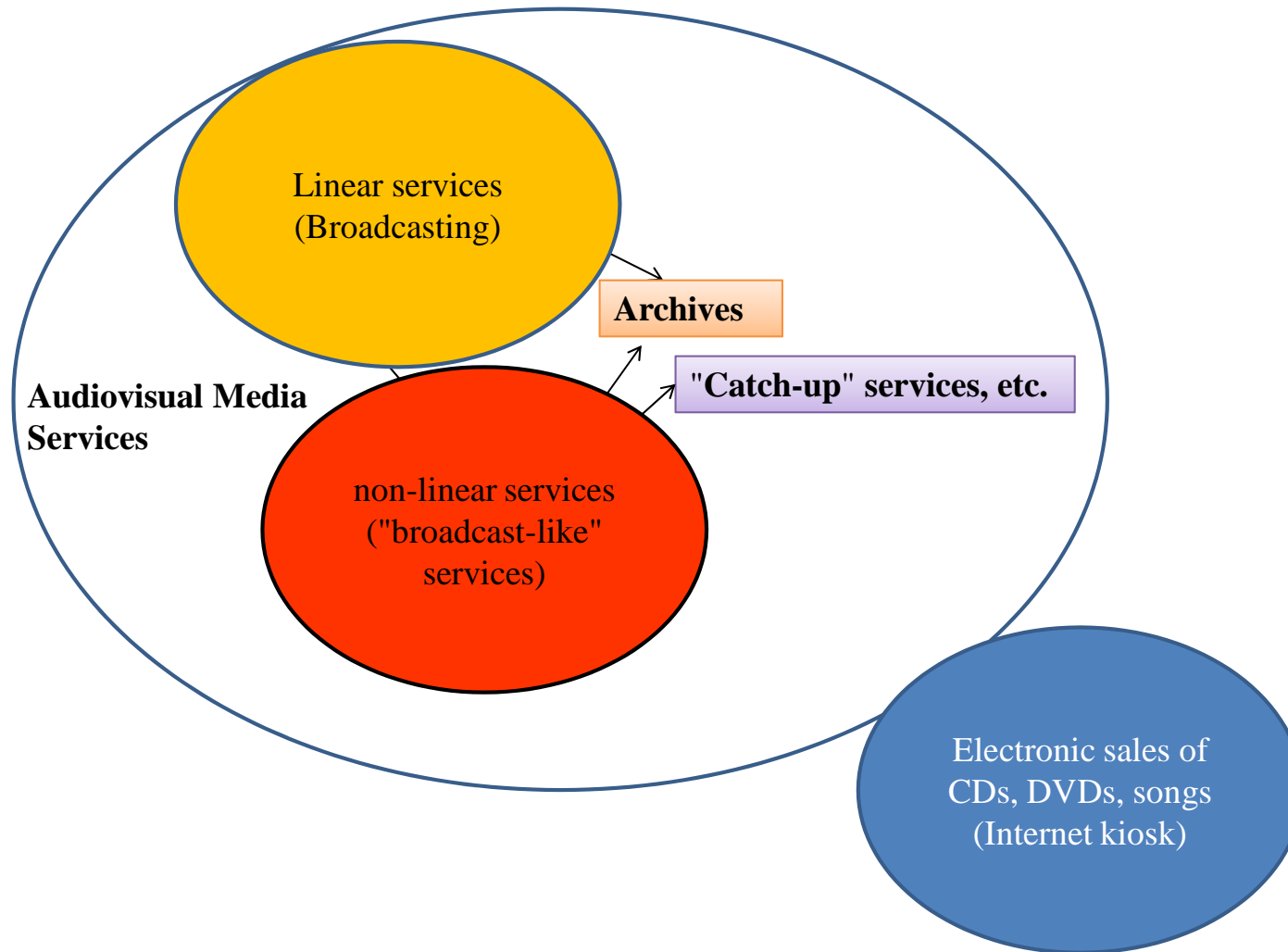


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Country of origin/Applicable law

Issue: Online avm services in the same situation as broadcasting

Proposal: The same rights clearance for all avm services = One licence based on one applicable (EU) law, but maintaining contractual freedom for right holders (instead of 27 different laws and tariffs)

- Further fine-tuning to prevent possible “race to the bottom“

+: Not applicable to retail-like on-demand services



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Same retransmission scheme for all platforms

Issue:

No level playing-field for other retransmission platforms than cable

Proposal: Technological neutrality for all retransmissions of linear programmes **on whatever platform**, incl.:

IPTV

Mobile retransmission

Retransmission via the Internet (e.g. Zattoo)

+: Improvement of EU-wide circulation of services



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Use of music in avm services

Issue: Thousands of small pieces of music are used per day/week in avm services

Proposal: One-stop-shop licensing for avm services via existing collecting societies. If not achieved **voluntarily**, collective licensing for avm services should be **mandatory**

+: Same rights clearance for all audiovisual media services
(thus incl. broadcast-like services but not on-demand retail sales)



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Extended collective licensing – the Nordic model

Issue: The Nordic model is flexible and future-proof

- Rights-holding organizations negotiate with users the conditions for a particular use of works
- Agreement applicable to all right holders, even if they are not member
- Possibility for "opt out"

+: Both exclusivity and contractual freedom are respected

Proposal: This system should be **available** in all Member States

- But for the national level to decide **for which use(s)** it should be applied

Examples:

- Timeshifted use of programmes by cable (or other retransmitting) operators
- Orphan works/Broadcasters' archives
- Use by schools, etc.

Special issue: PSBs' archives

28 million hours of
radio and TV
content

Proposal:

Use extended collective licensing

- Unless other national solution found (details per country may differ)
- Aim: Availability of PSB's archives for the public, including for broadcast-like services, subject to appropriate remuneration

+: A classic win-win situation:

Cultural heritage available to the public, plus additional income for right holders.



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Supervision of collecting societies

Issue:

Safeguard ***one-stop-shop*** model via EU-harmonized minimum rules (competition law alone not suitable, see EC Communication of 2004)

Proposal:

Collecting societies EU-wide subject to the same ***basic principles***:

- minimum obligations of representativeness and transparency
- same treatment of avm (broadcast and broadcast-like) services
- dispute settlement mechanisms

+: Legal certainty for societies + efficient rights clearance.



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