

Digital Television Regulation from a European Perspective

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Introduction

■ Background

- Institute for Information, Telecommunications and Media Law, University of Münster, Germany
- Expert consultant to Council of Europe, European Commission
- Hogan & Hartson Raue L.L.P., Berlin, Germany

■ Agenda

- Interactive Digital Television
- Switch-Over from Analog to Digital Television

Interactive Digital Television

Current EU Regulatory System

■ Information Society Services

- „Any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.“
- Operators must provide general information (name, address, etc.) under the E-Commerce Directive

■ Television Broadcasting Services

- „Initial transmission by wire or over the air [...] of television programmes intended for reception by the public“, excluding „services providing items of information [...] on individual demand.“
- Detailed content regulation in TWF Directive

Recent EU Activities on Interactive TV

■ **Review of Interoperability of Standards**

- Commission has the power to make certain standards mandatory under EC Framework Directive
- Requirement: Adequate interoperability of interactive TV must not yet have been achieved in the market
- February 2006: Commission refrained from making any standard mandatory (special focus in MHP)

■ **Review of the TWF Directive**

- Existing framework in place since 1989 / 1997
- Ongoing review process since 2003
- Proposal for new directive presented in Dec 2005

TWF Policy Options Considered

- **(1) No changes to existing framework**
 - Maintain current TWF and E-Commerce Directives

- **(2) Focused amendments**
 - Update TWF definitions
 - Continue to exclude on-demand services from scope

- **(3) Comprehensive framework with graduated treatment of linear and non-linear services**

New Regulatory Approach

- **„Audiovisual Media Services Directive“**
- **Broad scope**
 - Aimed at electronic mass media services (point-to-multipoint)
 - Excluding only private point-to-point correspondence (e.g. emails)
- **Technology neutral (all platforms covered)**
- **Deregulation of advertising restrictions**
- **Member States shall support co-regulation (e.g. Codes of Conduct)**

Key Definitions

■ **Audiovisual media services**

- „Service with the principal purpose to provide moving images with or without sound, in order to inform, entertain or educate, the general public by electronic communications networks“

■ **Linear (television broadcasting) services**

- Programming schedule is determined by the service provider (e.g. television broadcasting, IPTV, streaming, web-casting)

■ **Non-linear (on-demand) services**

- The user decides when to use the service based on the choice of content offered by the provider (e.g. video-on-demand)

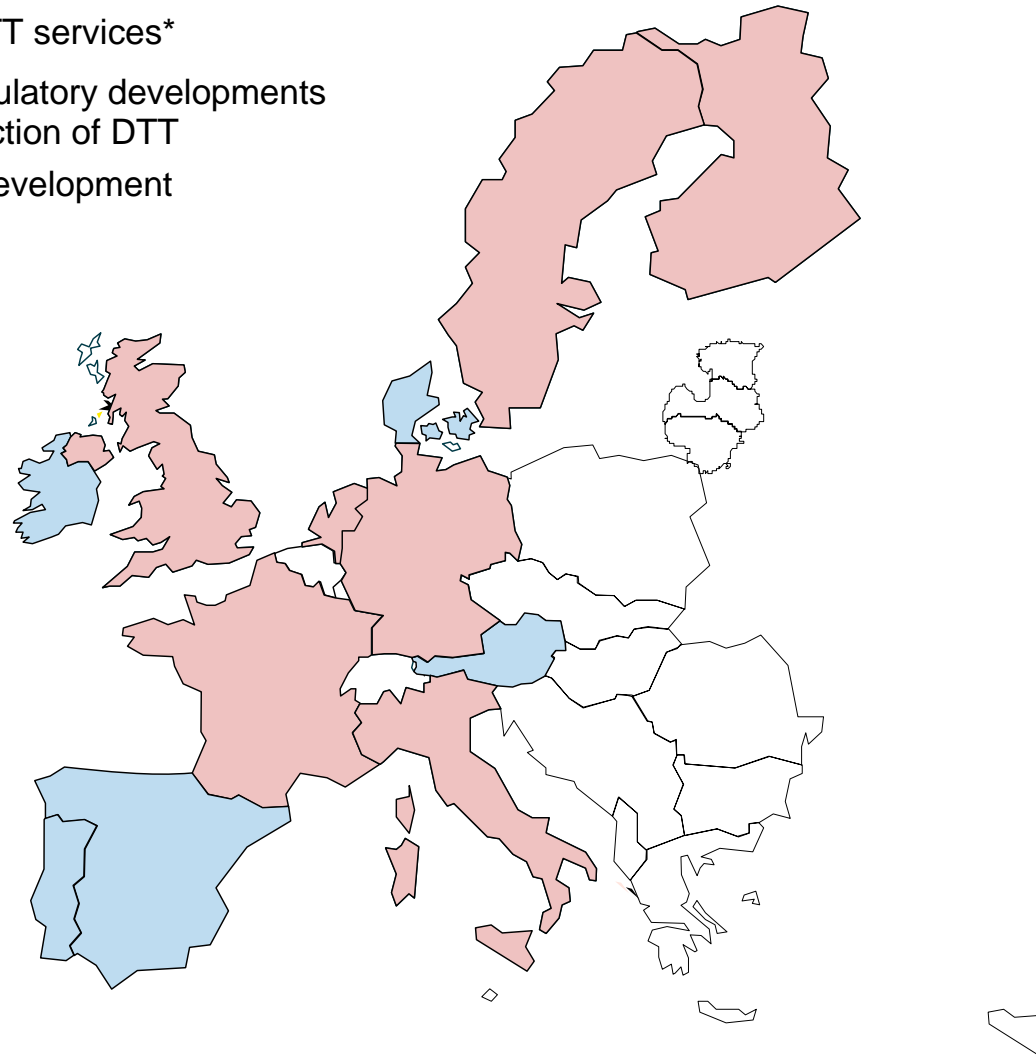
Graduated treatment of services

All audiovisual media services	Only (linear) television broadcast services
<ul style="list-style-type: none">■ Identification of provider■ Protection of minors■ Prohibition of incitement to hatred■ Identification of commercial communication■ Promote European works■ Some qualitative restrictions on advertising (e.g. alcohol)	<ul style="list-style-type: none">■ Quantity restrictions on advertising (20% per hour)■ “Major events” clause■ Right to short reporting■ Devote majority of programming to European works

Analog/Digital Switch-Over

Status of DTT Roll-Out in Europe

- Operational DTT services*
- Significant regulatory developments for the introduction of DTT
- Limited DTT development



* As of September 2005
Source: DVB

EU Level Regulation

- **Commission suggests 2012 target date for Member States to complete switch-over**
- **Initiative to collect national switch-over plans**
- **Promotion of open standards for interactive TV to facilitate digital roll-out**
- **No formal co-ordination of national switch-over initiatives on EU level**

The Berlin Example: 3 Step Approach

■ **Step 1: Make Analog Spectrum Available**

- October 2002: One high-power analog frequency abandoned to launch one digital multiplex

■ **Step 2: Simulcasting**

- February 2003: All commercial channels cease analog transmissions
- Public broadcasters continue simulcasting on low-power analog frequencies

■ **Step 3: Analog Switch-Off**

- August 2003: Public broadcasters cease analog transmissions

Berlin: Key Success Factors

- **12 analog frequencies available**
- **Only 6% terrestrial households (i.e. 160,000 out of 1.8 million directly affected by switch-over)**
- **Media authority's round table approach**
- **Brief simulcast period**
- **Subsidies**

Berlin: Receiver Market

- **Roundtable agreement to offer standards digital receivers at EUR 200**
- **Price soon dropped to well below EUR 100**
- **About 40 percent of Set Top Boxes were purchased by cable and satellite households**
- **Downside: Many „dumb“ boxes in the market which are not ready for interactive services**

Current DTT Roll-Out in Germany

as of March 2006



General DTT Legal and Policy Issues

- **Create public awareness for transition process**
- **Subsidies / Unlawful state aid problems**
- **Equal treatment of other transmission infrastructures**
- **Frequency allocation**
- **Must-carry status for DTT channels on cable networks**
- **Encryption of digital signals to protect copyrights**

Thank you.

Further information at www.switch-off.com.

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