

Scope of the Revised Directive: Distinguishing between Linear & Non-Linear Audiovisual Services

The logo for the Institute for Information Law (IViR) is centered on the slide. It features the letters 'IViR' in a large, bold, serif font. The letters are filled with a dense, intricate pattern of small, black, sans-serif characters, including letters, numbers, and symbols, creating a complex, digital-looking texture. The background of the slide is a light green gradient with a faint, repeating pattern of the same 'IViR' logo.

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The New Media Landscape: Audiovisual Media Services Without Frontiers
Malta, 20 November 2007

The Draft Audiovisual Media Services Directive

- Scope of the present directive
- Scope of the new directive (linear versus non Linear ?)
- Internet governance
- Enforcement
- Points for discussion

Scope of the present directive

- ‘Television Broadcasting’:
 - Initial transmission by wire or over the air
 - Including by satellite
 - In unencoded or encoded form
 - Of television programmes
 - Intended for reception by the public

Excluded

- Communications services:
 - Providing ‘items of information or other messages’
 - On individual demand
 - Such as telecopying, electronic databanks and other similar services

Mediakabel-case

- Mediakabel:
 - Cable service
 - Offering films ('Filmtime')
- European Court (case C-89/04):
 - Definition of the TwF-directive
 - Cable included
 - On individual demand

The AVMS-directive

- Audiovisual Media Service:
 - Television Broadcasting or Broadcast
 - On-demand service

Television broadcast

- Television broadcast:
 - i.e. a linear audiovisual media service
 - an audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule

On-demand service

- On-demand service
 - i.e. a non-linear audiovisual media service
 - an audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his/her individual request on the basis of a catalogue of programmes selected by the media service provider

Examples

	AVMS	Not
Film, telefilms, serials on demand	X	
Sport events on demand	X	
Entertainment shows on demand	X	
Vidoreports of concerts/live arts performances on demand	X	
Tv news reports on demand	X	
Advertising (other than text and still images) delivered in connection with on demand services above		X
Advertising (pop-up clips other than text and still images) not delivered in connection with on demand services mentioned above		X
Video clips inserted in web-sites when the main purpose is not the delivery of audiovisual content but to deliver information on the activities (commercial or non commercial) of the site owner		X
Animated images inserted on press (newspapers, periodicals, agencies) web-sites – if of ancillary nature		X
Blogs for non-commercial purposes		X
YouTube	?	?

Technology neutral

- Television broadcast and on-demand are defined in a technology neutral way
- Distribution mechanism irrelevant: airwaves, satellite, cable, telecommunications networks
- Also irrelevant: analogue/digital, IP-protocol

Internet governance

- Technology-neutral approach brings the internet and the Internet Protocol within the scope of the directive:
 - IPTV via cable or telephony networks
 - Broadcasting or on-demand services provided on the internet
- Introduction of a substantial level of Internet governance

Enforcement

- Member States with jurisdiction are responsible for compliance
- More strict regime for television broadcasts (introduction of a ‘receiving state’-principle)

Points for discussion

- Technology neutral?
- What about the supply/demand approach?
- Impact of the applicability to the internet?

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