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COMMUNICATION FROM THE COMMISSION

TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS

**The Convergence of the Telecommunications,
Media and Information Technology Sectors,
and the Implications for Regulation**

**Results of the Public Consultation on the Green Paper
[COM(97)623]**

The purpose of this Communication is to report to the Community institutions and the public at large on the consultation associated with the Convergence Green Paper.¹

The Green Paper drew attention to the significant economic and social implications of the convergence phenomenon. In terms of economic development, job creation, cultural identities and social impact, the stakes for Europe are high. The telecommunications sector is widely regarded as being the single most important contributor to economic growth in the Union, whilst the socio-cultural impact of the audiovisual sector, in particular broadcasting, is without parallel. Creating an appropriate regulatory framework for the sectors concerned is therefore of the utmost importance if technological developments are to lead to economic growth and job creation and to allow Europe to take advantage of its rich cultural diversity.

The Public consultation

The first stage : December 1997 – May 1998. The public consultation was carried out in two stages, the first of which was summarised in a Commission Working Document adopted in July 1998.² Its main conclusion was that the convergence of technological platforms and network infrastructures was already a reality, and that similar regulatory conditions should therefore apply to all such infrastructures, irrespective of the types of services carried over them. This so-called "horizontal" approach to the regulation of infrastructure was complemented by a more vertical approach to that of services, the regulation of which would continue to be determined by the specific nature of a given service.

The opinion of the Community institutions on the Green Paper. In the meantime, the Economic and Social Committee, the Committee of the Regions, and more recently the European Parliament issued broadly favourable opinions on the Green Paper. They underlined

the importance of maintaining European competitiveness in the face of the rapid technological and market change leading to realisation of the Information Society, and saw the need for an appropriate regulatory environment as an essential part of this trend. They confirmed the separate approaches to regulating infrastructure and content services, but considered that any regulation should take due account of the public interest and of Europe's unique cultural environment.

The second stage : July-November 1998. The Commission's July Working Document also launched the second stage of public consultation by posing questions on what the Commission perceived as three key areas:

- (i) access to networks and gateway facilities ;
- (ii) investment, innovation and content production, and
- (iii) balancing regulation between public interest and competition considerations.

Responses were received from over 80 organisations, most of them concerned with access issues as a critical factor in securing effective competition. New on-line service providers wanted regulated access to networks, whereas incumbent operators thought that such regulation would discourage investment in infrastructure. Traditional broadcasters called for open access to networks and gateways for the provision of digital television and other services. Many commentators feared that vertically-integrated operators might abuse their market power and control of access to one or more elements of the value chain in order to foreclose market entry by others. The divergence of views was illustrated by calls from some parties for detailed regulation of certain bottlenecks and from others for a lighter touch and a more flexible regulatory environment. Openness was recognised as a long-term goal, but most commentators acknowledged that this should be a market-led process. There were also divergent views on the respective roles of regulation and competition law, although most commentators saw a continued, albeit transitional role for regulation as the convergence of technologies and markets leads to increased competition.

On the second question of how best to encourage investment and innovation in the new environment, the need to adapt current measures

¹ Green Paper on the Convergence of the Telecommunications, Media and Information Technology Sectors, and the Implications for Regulation, COM(97)623, Brussels, 03.12.1997

² Summary of the results of the public consultation on the Green Paper on the Convergence of the Telecommunications, Media and Information Technology Sectors ; Areas for further reflection, SEC(98)1284final, Brussels, 29.07.1998.

to the new environment was highlighted. Views on regulatory measures aimed at promoting European content lent in the direction of investment- rather than time-related quotas. Strong copyright protection was seen as an important factor. Many thought that programmes such as a MEDIA III were to be encouraged, and that fiscal incentives and financial guarantees for investment in content production should be considered. Finally, adherence to open interoperable standards was viewed as essential to foster the growth of a wide range of content services over a similarly wide range of delivery media. With regard to the second part of this question – how to take account of the level of investment – most thought that no special measures were needed beyond a secure and predictable regulatory environment. Some parties called on competition authorities to properly reflect investment risk and uncertainty in formulating definitions of relevant markets.

With regard to the third question on ensuring a balanced approach to regulation, no particular contradiction between public interest and market considerations was seen. Rather there was an overlap in which market forces were viewed as a necessary but not sufficient condition for fulfilling some (though not all) areas of public interest. Many views highlighted the importance of the proportionality principle, though few attempted to outline specific criteria in this regard, and there were mixed views on how public broadcasting fitted into the new environment. Self-regulation was seen as a useful mechanism for most content-related matters and for developing open standards, but not particularly for dealing with market power problems.

Key messages

The key messages emerging from the consultation are :

- With regard to the role of regulation, affirmation of the continuing need to meet a range of public interest objectives whilst recognising the need to promote investment, in particular in new services.
- The need for transparency, clarity and proportionality with regard to rules and to distinguish between :
 - regulation imposing positive and negative obligations in the public interest,
 - sector-specific regulation complementing case-by-case application of competition rules,
 - promotional measures ensuring outcomes according to specific policy objectives.
- Separation of transport and content regulation, with recognition of the links between them for possible competition problems. This implies a more horizontal approach to regulation with:
 - homogenous treatment of all transport network infrastructure and associated services, irrespective of the types of services carried;
 - a need to ensure that content regulation is in accordance with the specific characteristics of given content services, and with the public policy objectives associated with those services ;
 - a need to ensure that content regulation addresses the specificity of the audio-visual sector, in particular through a vertical approach where necessary, building on current structures;
 - application of an appropriate regulatory regime to new services, recognising the uncertainties of the marketplace and the need for the large initial investments involved in their launch while at the same time maintaining adequate consumer safeguard.
- A balanced solution as to how public broadcasting can be best integrated into the new environment, which should:
 - respect Member State competence by defining the remit of public service broadcasting in accordance with Protocol 9 annexed to the Amsterdam Treaty;
 - encourage those organisations vested with public broadcasting obligations to exploit new technologies and new ways of reaching their audiences;
 - require such broadcasters to distinguish clearly between defined public broadcasting activities and activities lying in the competitive domain.

- Effective application of the competition rules; an increased reliance on those rules, accompanied by gradual phasing-out of sector-specific regulation, as the market becomes more competitive
- Actions aimed at promoting premium European content.

Next Steps

The present Communication brings to a close the consultation process associated with the Convergence Green Paper. The Commission now intends to draw on this process to develop proposals for action on regulatory reform. Such proposals will be underpinned by a coherent set of regulatory principles which will be the subject of a forthcoming Communication. Following the approach emerging from the consultation, the proposals will cover :

- reforms in the regulation of infrastructure and associated services will be proposed as part of the 1999 Communications Review, a process already foreseen in current community telecommunications legislation ;
- those in the regulation of content services will be covered either by adjustments to existing legislation at an appropriate time, or by the introduction of new measures.

A number of flanking actions in both content and infrastructure areas are also foreseen. Actions relating to content include :

- Verification of the transposition and actual application by the Member States of the second Directive on Television without Frontiers
- Proposal on measures for the promotion, production and distribution of European works in the audio-visual sector (MEDIA III programme)

Actions relating to infrastructure include :

- Report on the implementation of Directive 95/47/EC on the use of standards for the transmission of television signals and verification of the transposition of this Directive by the Member States, and an assessment of the need to amend the Directive.
- Communication on the public consultation on the radio spectrum Green Paper

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1. INTRODUCTION

The Green Paper on Convergence drew attention to the economic and social implications of the convergence phenomenon. The new services which are developing and on which the Information Society will be based have the capacity to substantially improve the quality of life for Europe's citizens and to make European businesses more competitive. They will contribute to the further integration of the world economy, but will also offer ways to preserve and build on Europe's rich cultural diversity. The economic significance of the sectors concerned is itself considerable: worldwide revenues for the telecommunications, media and information technology sectors were estimated at €1750 billion in 1996, of which €508 billion were attributed to EU markets. The telecommunications sector alone is widely regarded as being the single most important contributor to economic growth in the Union. The audiovisual sector, for its part, combines economic, social and cultural issues in a unique way. The socio-cultural impact of television, for example, is without parallel. Household penetration of TV sets in Europe is of the order of 98% and the average European watches some 200 minutes of television per day. It is evident therefore, that creating an appropriate regulatory framework for the sectors concerned is of the utmost importance if technological developments are to lead to economic growth and job creation, and to allow Europe to exploit its rich cultural diversity.

This Communication takes the debate on the regulatory implications of convergence a step further by describing the results of a two-stage public consultation process, which followed adoption of the Commission's Green Paper on the subject in December 1997.³ The first round of consultations was conducted over a 5-month period immediately following adoption of the Green paper. The second was conducted during a 3-month period following publication of the Commission's Working Document of 29 July 1998.⁴

³ Green Paper on the Convergence of the Telecommunications, Media and Information Technology Sectors, and the Implications for Regulation, COM(97)623 final, Brussels, 3.12.97

⁴ Summary of the results of the public consultation on the Green Paper on the Convergence of the Telecommunications, Media and Information Technology Sectors; Areas for further reflection, SEC(98)1284final, Brussels, 29.07.1998.

2. RESULTS OF THE PUBLIC CONSULTATION

The consultation on the Green Paper has initiated a useful, indeed essential debate between those sectors affected by convergence. Three hearings were organised in March and April 1998 for national and European representative associations and bodies, individual undertakings and the authorities of the Member States and the EEA.

The 270 written responses received during the initial stage of consultation, amounting to more than 3000 pages from organisations in each of the three sectors and consumer bodies and Member States, show that there is now general awareness of the consequences of convergence and agreement that regulation will play an essential role in the future development of the sectors covered by the Green Paper.

Results of the first consultation

There is agreement on the reality of the technological convergence of networks which supply similar services in the form of digital data, but views differ as to the speed and scope of its impact on markets and services.

A number of potential barriers and key regulatory issues have been highlighted. Questions of access to set-top boxes, navigation systems (including electronic programme guides (EPGs)) and application programming interfaces (APIs) are areas requiring attention in the near future.

There is general recognition that sector-specific rules will continue to be necessary:

- both to secure certain general interest objectives, in particular within the audiovisual sector, even if those rules or the way they are applied may need to be modified to take account of the impact of new technology. Such sector-specific rules will be combined with the application of competition rules and increasing reliance on industry self-regulation;
- and to guarantee equal opportunities to all market operators until there is proper competition.

However, the telecommunications and IT sectors are in favour of less stringent sector specific regulations or rules given the increasing levels of competition (due to among other

things telecommunications liberalisation), the rapid pace of change, market uncertainties and the need to promote investment and innovation.

There is agreement that demand for content will increase, particularly in the audiovisual sector, and that measures to foster European production should therefore be considered.

Although the majority are in favour of an evolutionary rather than a revolutionary approach (particularly in the context of the regulatory framework for telecommunications liberalised on 1 January 1998) a consensus has emerged for a more horizontal approach to regulation (i.e. similar, technologically neutral rules for transmission/access to networks, since these play an identical role of transmitting information) but with a vertical or sector-specific approach for regulating certain aspects for the provision of services such as content, closely linked to the specific characteristics of the services concerned.

The majority of commentators and most Member States supported a regulatory approach which would build on existing frameworks (option 1), sometimes in combination with a new regulatory framework specifically for the new services (option 2). Others proposed a combination of option 1 (for services) and option 3 (for infrastructures).

Results of the second consultation

In order to deepen the debate on three key issues, where a need for further reflection was perceived, the Commission's Working Document identified three areas for further comment:

1. Access to networks and digital gateways in a converging environment
2. Creating the framework for investment, innovation, and encouraging European content production, distribution and availability, and
3. Ensuring a balanced approach to regulation

Nearly 90 contributions were received during this second stage of consultation. The vast majority of these confirmed the three areas identified by the Commission as crucial to the convergence debate.

Access issues

There was general agreement that access issues, including access to the local loop and to gateway facilities, was a key factor for the development of competition, and provided the most pressing case for regulatory attention. It was claimed that network access is of strategic importance because of the way it links network operators, service providers and end-users.

Comments on the access issue centred on two areas:

- whether the initial focus of regulation should be on service-based competition, or on encouraging the emergence of competing infrastructures; and
- whether in the converging environment regulation should play a prominent role alongside the application of competition law.

Service- or infrastructure-based competition

Views were evenly balanced between those favouring service-based and infrastructure-based competition. Among the former were new entrants and established broadcasters, who saw advantages in having early access to customers without having to finance heavy investments in infrastructure before building up revenues from service provision. Broadcasters generally supported service-based competition as a means of widening their reach to the full range of platforms that convergence was making possible.

The thrust of the service-based competition argument is that opening access to infrastructure, in particular the local loop, is essential for the development of a large variety of information society content services (fast on-line access, streamed video, VOD, etc.), which will need to reach as many potential users as possible if they are to be successful. Giving operators access to a critical mass of customers at the earliest possible stage would lead to a more rapid introduction of competition in the provision of services, where the opportunities for innovation and the benefits in terms of consumer choice were greatest

Incumbent telecommunications operators generally disagreed, opposing concepts such as local-loop unbundling on the basis that they

acted as a major disincentive to investment in new infrastructure for all parties, incumbents and new entrants alike. They preferred such access to be granted on a managed network basis, making use of the operators' own technology and interfaces for the local loop.

Relationship between specific regulation and competition law

Views on the place of regulation in the area of access in addition to the standard application of competition law were divided between

- those who supported a continuing role for sector-specific economic regulation
- those preferring an approach based solely on applying the competition rules
- those seeking a gradual phasing-out of sector specific regulation as a competitive market develops

A continuing role for sector-specific regulation. Commentators supporting a continuing role for specific regulation did so from two standpoints. Firstly, many parties, including governments, incumbent players and new entrants, recognised that sector specific regulation would be needed to ensure that public interest objectives were defined in a precise legal framework, on the basis that such objectives were not covered by general competition law. Some thought that the notion of access was so fundamental to the proper development of the information society that reliance solely on general competition rules would be inadequate.

Secondly, from the economic standpoint, a number of parties, both incumbent and new entrants, argued that specific regulation provides legal certainty for investors and the timely solution of problems of anti-competitive practice, without which anti-competitive positions could become entrenched before any *ex-post* application of the competition rules could be effective. More specifically, as long as basic access and supply cannot be guaranteed in a converged environment, sector specific regulation would be needed in addition to the common competition rules.

Public broadcasters stated that sector-specific rules for broadcasting would continue to be needed in the future. In addition, they claimed that the distribution of broadcasting services over cable television networks would need to

be regulated, to ensure must-carry rules, to protect the service operators and users in view of the gatekeeping role of some network operators, and to guarantee that public service broadcasting services should be accessible to all. They considered that access to frequencies for less profitable public services should be guaranteed. Some even considered that all communications infrastructures should be considered as essential facilities. An opposing view was that *must-carry* obligations and other regulatory measures could be obstacles to investment.

The means and timeframe for sector-specific regulation

Responses to this part of the Working Document's question on access encompassed views expressed on :

- any transitional role for regulation (the third grouping described at the beginning of the previous section) ; and
- the effectiveness of self-regulation as a regulatory tool.

A large proportion of those favouring the competition-law approach recognised that sector-specific regulation could only be phased-out after a period of transition towards a mature competitive market. To this end, one of the main purposes of transitory regulation should be to encourage the early onset of competition. The general view was that during the transitional period, special rules on aspects such as pricing, standards, interoperability and temporary bottlenecks would be gradually relaxed in accordance with criteria based on the development of competition. Several commentators saw flexibility and national discretion as essential in this process in view of the need to recognise the varying degree of competition in Member States, and nature of the transition to a competition-based approach. This would not be accomplished necessarily at a given time, but would be tied to certain trigger points or thresholds associated with the criteria referred to above. Notions of "regulatory forbearance" or "sunset clauses", already in use elsewhere, were mentioned as useful concepts in this regard.

There was particular attachment to the importance of standards in the development of the market for digital services having as their starting point today's digital television plat-

forms. A recurrent theme of the comments received was the role of open European standards in promoting the development and growth of Information Society services by removing technical barriers to access and ensuring interoperability.

Most (though not all) of these stopped short of stating that such standards should be mandatory, suggesting that it should be an industry-led process. Many suggested the conditional access provisions of the existing Television Standards Directive (95/47/EC) as a model for the regulation of digital services in the future. Fair, reasonable and non-discriminatory access to Electronic Programme Guides (EPGs), Application Programming Interfaces (APIs) and Set-top box memory were areas cited by a number of contributors including broadcasters, and regulators as in need of regulatory attention in order to guarantee both competition and pluralism. Some IT and telecommunications companies pointed out that such gateway facilities should be regulated in the same way as Internet browsers, namely by effective application of the competition rules, otherwise there would be an inconsistency of approach.

In summary, commentators considered that with regard to the regulation of access:

- a balance would have to be struck to avoid the pitfalls of over-regulation while at the same time meeting legitimate public interest requirements and encouraging sustainable competition in the marketplace.

- gateways, bottlenecks and essential facilities would need to be clearly defined, and decisions would need to be made as to which such bottlenecks or essential facilities will require sector specific regulation in addition to the standard application of competition law in order to realise stated policy objectives.

A framework for investment and innovation

Evolution and promotion of European audiovisual content

There was widespread agreement that attractive audiovisual content was the key to success in a digital environment. Many contributions

also emphasised the increased demand for (and price of) premium audiovisual content that would arise as a result of channel proliferation and increasing competition between broadcasters.

In addition, it was argued that channel proliferation would further fragment the European audiovisual market, thereby making it yet more difficult for certain audiovisual productions, in particular those aimed at smaller national and regional markets to recoup their costs: this would lead to increased pressure on broadcasters to opt for cheaper imported or archive material and consequent deleterious effects on quality and cultural diversity. Consequently, there were strong expressions of support from broadcasters, producers and distributors, the creative Community and certain Member States for continued measures to promote European audiovisual production.

However, it was widely recognised that current measures to promote European audiovisual content production would have to be adapted to the digital environment. The following elements were, *inter alia*, most frequently put forward as part of a favourable framework for European content production :

- A stable, consistent and coherent regulatory framework ;
- Regulatory requirements with regard to the production of European *audiovisual* content (In this regard, many contributions argued that content requirements based on broadcast time were rapidly becoming obsolete and that consideration should be given to mechanisms based on investment requirements.);
- Strong copyright protection ;
- Fiscal incentives and financial guarantees and targeted support mechanisms such as the MEDIA programme ;
- Open and interoperable technical standards (though the particular standards chosen should not, as a rule, be imposed by regulators but developed through self-regulation).

It was recognised that the production of attractive, quality audiovisual content was first and foremost a matter for the industry itself. Nevertheless, financial support mechanisms at

European level were seen as playing an important role in promoting production and distribution at European level. With regard to the MEDIA programme there were calls for it to be opened up to broadcasters, for yet more emphasis on training, for automatic support systems⁵ to improve the circulation of European works and their export, as well as for greater co-ordination and complementarity with other European funds available. In addition, many felt that broadcasters represented a major strength for Europe but were insufficiently taken into account in existing support mechanisms.

Some contributors, including a number of commercial broadcasters, argued against this approach and called for content production to be left to the market. They argued that content requirements could represent a barrier to market entry and decrease competitiveness. Moreover, audiences showed a preference for local, culturally relevant production, so the market would of itself provide for quality and cultural diversity. In particular, there were warnings that content requirements should not be extended to areas where they were inappropriate, such as fully interactive services, and that support for the audiovisual industry should not be allowed to distort competition with multimedia products.

Finally, many contributors stressed the central role of public service broadcasters in producing European works and establishing a benchmark for quality. Connected to this, others called for measures to ensure that funding of public service broadcasters would not create distortions of competition with commercial broadcasters or with providers of new services.

Taking account of the level of investment

There was widespread agreement on the need to encourage or at least remove obstacles to the high levels of investment needed, including for RTD, but less clear views on how this could be achieved. Many contributions referred to the difficulties of predicting the future and the

⁵ Automatic schemes are schemes whereby financial support (in whatever forms – grants, loans, etc) is automatically given to a producer (or a distributor), either on a film-by-film basis or on the basis of a slate of films (or programmes), on the basis of an objective set of criteria. A simple example is when a particular film achieves a million entries, and the scheme provides for support at, say, 1 Euro per entry, the production/distribution company will receive 1 Million euro to invest in the production of its next film. Automatic schemes reward success.

dangers of regulatory “second-guessing” in terms of promoting certain standards or platforms. In general, it was argued that the regulatory framework should encourage competition and market entry, must be flexible enough to take account of rapid economic and technical developments, but must be stable enough to ensure that early investment takes place. Other contributors added the caveat that encouraging investment should not be interpreted so as to permit distortions of competition by dominant market players.

Many contributors argued that, in terms of encouraging the necessary investment, judicious application of competition law would be more a more effective approach than regulatory measures to promote particular standards, platforms or services. Regulatory measures with regard to this question were seen more as transient measures aimed at the creation of open and competitive markets. However, other contributors added that competition authorities should take account of the huge investments needed, which meant, inter alia, paying particular attention to the definition of relevant markets. Where regulation was necessary with regard to price levels, regulators should take into account the fact that the pricing of successful services often contained an element needed to cover the costs of less successful ones.

In conclusion, the consensus of opinion centred around the view that the right way to take account of investment needs was to establish a consistent, predictable and technology-neutral regulatory framework.

Ensuring a balanced approach to regulation

Balance between securing public interest objectives and facilitating the development of open competitive markets

Perhaps the most important common element in the responses to this question was the view that there is no necessary contradiction between the development and achievement of open competitive markets and the securing of public interest objectives. Indeed, many contributions saw considerable overlap in these two goals. In general, open and competitive markets were seen as making a necessary but not always sufficient contribution to securing certain public interest objectives such as uni-

versal access, affordable prices, pluralism and diversity. With regard to public interest objectives such as the protection of minors and human dignity, open and competitive markets could not contribute.

Similarly, many responses saw no necessary conflict between the application of sector-specific rules and the application of the principle, as put forward in the Green Paper, that regulation should be limited to what is strictly necessary to achieve clearly identified objectives.

Following on from this, there was a very clear consensus that the regulation of infrastructure and content required separate and differing approaches. With regard to content regulation, other contributions added to this the argument that securing certain public interest objectives also implied different approaches vis-à-vis one-to-one communications and one-to-many (broadcast) communications : it was argued that, with regard to public interest objectives such as the protection of minors, pluralism and cultural diversity, the pervasiveness of the medium should be taken into account and that regulation should be graduated accordingly.

Whilst there was agreement on the benefits of open and competitive markets, there were differences as to how to achieve this goal. Some placed more emphasis on sector specific rules, arguing that these were needed at very least for a transition period in order to address issues of market dominance and access and to bring such markets into existence. Others stressed the need for minimal regulation in order to remove barriers to the development of competitive markets and new services, arguing that concepts such as universal service and public interest should be reviewed in the light of technical, market and social developments. There were many calls for clear definitions of public interest objectives as well as calls for the remit of public service broadcasters to be defined.

Proportionality of sector-specific rules

Whilst many responses highlighted the importance of the principle of proportionality, few attempted to outline specific criteria to ensure that sector-specific regulation is proportionate. Some regarded this as unnecessary, even unrealistic and argued instead for the application of principles.

With regard to public service broadcasting and the proportionality of sector specific rules and competition law, several contributions referred to the Protocol on the System of Public Broadcasting in the Member States attached to the Amsterdam Treaty. Some emphasised the role played by public service broadcasting in ensuring that consumers have access to diverse and high-quality programming, whilst others drew attention to possible distortions of competition arising from the funding of public service broadcasters, particular in new services.

Role of self-regulation in achieving this balance

Many responses put forward the view that self-regulation could play an important role in achieving a balance between establishing competitive markets and safeguarding the public interest. Self-regulatory measures could, it was argued, make a significant contribution to the achievement of public interest objectives, in particular with regard to content – the protection of minors and human dignity, advertising standards, programme quality and so on. Most contributors held the view that the role of self-regulation would increase in the future, due to factors such as the development of the Internet and the proliferation of television channels in the digital age.

While self-regulation was also thought to be useful in markets where competition is already working effectively, most commentators thought it to be a less effective replacement of regulation either in economic terms (for example in dealing with abuse of first-mover dominance) or in addressing all political, social and cultural goals. There was some support for the role of self-regulation in standards setting, with some commentators suggesting a role for regulation in cases where industry-led bodies fail to agree on common standards.

Securing public interest objectives and facilitating the development of open and competitive markets are not seen as contradictory aims. Separate approaches to the regulation of infrastructure and content were seen as a way to achieve the desired balance.

Self-regulation could also contribute to the achievement of this balance, particularly in markets where competition was assured but also with regard to certain public interest objectives in the content sectors.

3. THE OPINION OF THE EUROPEAN PARLIAMENT OF 22 OCTOBER 1998

The opinion of the European Parliament of 22 October 1998 broadly confirms the lessons drawn from the first stage of consultations, while expanding on them.

Parliament also considers that there should be a single regulatory framework for what is basically the same activity, the transport of information through the different networks. This regulatory framework applicable to electronic communications infrastructure should remain separate from that applicable to the content conveyed, and this should apply in international agreements as well.

Parliament underlines the need for adequate regulation, reflecting a balance in the law on the media, telecommunications and competition, which will ensure security for investors and legal certainty. To this end, it states the following:

- strict implementation of European competition law is necessary to ensure that all competitors have access to the market and consumers' choices are not restricted;
- with such application there must still be a clear relationship between ends and means, so that the disappearance of the shortage of frequencies does not render obsolete the pursuit of such political goals as pluralism, protection of minors, promotion of cultural diversity and the production and distribution of high quality programmes; there should be a cautious attitude towards regulating new services, which will complement rather than replace the traditional media and services: such regulation should be introduced only where it is necessary to safeguard the interests of consumers and the general

public, according to principles announced in advance and if self-regulation by the industry appears not to be efficient enough.

- Parliament also considers that television as referred to in the Directive on Television without Frontiers will remain the principle medium of primary information provision and processing for the foreseeable future and that it is therefore of paramount importance in helping people in our pluralist societies to arrive at opinions and decisions and in the functioning of democracy, the preservation of cultural diversity and conveying social values, irrespective of the type of financing (charges, advertising, subscriptions, pay-per-view) and the method of transmission;
- Moreover, Parliament takes the view that the convergence of these sectors must be reflected in European rule-making in such a way that interoperability of the various technologies is not hampered, straightforward and user-friendly interfaces must be developed; the European Union must support open standards and platforms, the development of generic services and interoperable applications. The process of establishing technical standards must be as fast as possible and remain based on industry recommendations;
- ONP-type open provision rules will have to be broadened whenever there is a risk that bottlenecks will hamper the proper application of competition law; it is recommended that the Commission considers applying it to network interconnection in the audiovisual sector, service interoperability, conditional access and decoders, subscription management and network navigation systems.

Finally, the European Parliament considers;

- that content regulation should be compatible with the principle of subsidiarity and with the international commitments of the European Union and should be graduated according to the needs and objectives of public policy and to the audience covered, taking into account in particular the requirements concerning pluralism in public opinion formation and calls on the Member States to make sure that the preferential treatment accorded to public service broadcasting, pursuant to the protocol to the

Treaty of Amsterdam on the system of public broadcasting in the Member States, is at all times subject to particularly demanding conditions with regard to programme content and quality.

- that "must carry" obligations should be instituted for network operators, under the terms of their licence, in respect of the programmes of public service programme providers, which should also apply to digital broadcasting (digital networks and terminal equipment/decoder boxes) and to user guide systems.
- that the Commission should propose, in the context of the forthcoming action plan, the reinforcement of the MEDIA II programme, particularly in the light of the conclusions of the Birmingham Conference.
- that there is a need for greater differentiation of the regulatory authorities - given that distinct political goals will continue to exist - and not amalgamation but better co-ordination of those authorities.
- that the Commission should submit a proposal for a directive on the subject of media ownership and pluralism, which takes account of all forms of electronic communication.

4. CONCLUSIONS EMERGING FROM THE CONSULTATION

Convergence is a relatively new phenomenon, which is already having an impact on the sectors covered by the Green Paper, namely telecommunications, media and information technology. Whilst convergence should not be seen as an end in itself, but as a development induced by technology, it represents exciting new opportunities for growth, also in terms of employment, for the different sectors, and economies.

Moreover, Convergence is a phenomenon that goes beyond purely economic considerations. New technologies, and in particular the increasingly widespread use of digital networks will impact equally on society and the citizen in a number of important respects, giving access to new services and applications. Research and development will have a key role to play in ensuring that European citizens and the operators in the sectors concerned reap the potential benefits.

The Green Paper asked whether these developments would affect the policy objectives of the areas concerned. Which overall general objectives should apply to the sectors concerned by the convergence phenomenon? The Commission's Working Document⁶ asked how the regulatory approach should achieve the right balance between the development of open competitive markets and securing important public interest objectives.

Certain objectives have been identified in the ongoing debate on these issues, in particular the need for regulation to favour and encourage both competition between operators as well as the competitiveness in general of European industry. Another important consideration was that regulation should be technology neutral. At the same time, the second consultation identified a continuing need to meet a number of public interest objectives such as the protection of minors, the protection of consumers, and the promotion of European content in all its forms.

The Community has already addressed a number of these objectives in the sectors concerned either by the application of primary Community law or by the adoption of secondary legislation (such as Directives).

In light of the opportunities and requirements that have been identified in the course of the consultation on convergence and the Community objectives that are relevant to this debate, it is necessary to assess to what extent Community action is necessary to enable the sectors to benefit from these possibilities. The consultation has succeeded in clearly defining the needs of the sectors, in particular in respect of the replies to the questions asked in the second round relating to access to networks and favouring investment and innovation. There is a need to ensure that the regulatory framework provided for the sectors concerned and any possible future initiatives proposed continue to provide for the right balance between ensuring competition, promoting competitiveness and meeting public interest objectives.

Key messages

The key messages emerging from the consultation are :

⁶ Op. Cit. 4

- With regard to the role of regulation, affirmation of the continuing need to meet a range of public interest objectives whilst recognising the need to promote investment, in particular in new services.
- The need for transparency, clarity and proportionality with regard to rules and to distinguish between :
 - regulation imposing positive and negative obligations in the public interest,
 - sector-specific regulation complementing case-by-case application of competition rules,
 - promotional measures ensuring outcomes according to specific policy objectives.
- Separation of transport and content regulation, with recognition of the links between them for possible competition problems. This implies a more horizontal approach to regulation with:
 - homogenous treatment of all transport network infrastructure and associated services, irrespective of the types of services carried;
 - a need to ensure that content regulation is in accordance with the specific characteristics of given content services, and with the public policy objectives associated with those services ;
 - a need to ensure that content regulation addresses the specificity of the audiovisual sector, in particular through a vertical approach where necessary, building on current structures;
 - application of an appropriate regulatory regime to new services, recognising the uncertainties of the marketplace and the need for the large initial investments involved in their launch while at the same time maintaining adequate consumer safeguard.
- A balanced solution as to how public broadcasting can be best integrated into the new environment, which should:
 - respect Member State competence by defining the remit of public service

broadcasting in accordance with Protocol 9 annexed to the Amsterdam Treaty;

- encourage those organisations vested with public broadcasting obligations to exploit new technologies and new ways of reaching their audiences;
- require such broadcasters to distinguish clearly between defined public broadcasting activities and activities lying in the competitive domain.
- Effective application of the competition rules; an increased reliance on those rules, accompanied by gradual phasing-out of sector-specific regulation, as the market becomes more competitive
- Actions aimed at promoting premium European content.

Next Steps

The present Communication brings to a close the consultation process associated with the Convergence Green Paper. The Commission now intends to draw on this process to develop proposals for action on regulatory reform. Such proposals will be underpinned by a coherent set of regulatory principles which will be the subject of a forthcoming Communication. Following the approach emerging from the consultation, the proposals will cover :

- reforms in the regulation of infrastructure and associated services will be proposed as part of the 1999 Communications Review, a process already foreseen in current community telecommunications legislation ;
- those in the regulation of content services will be covered either by adjustments to existing legislation at an appropriate time, or by the introduction of new measures.

A number of flanking actions in both content and infrastructure areas are also foreseen. Actions relating to content include :

- Verification of the transposition and actual application by the Member States of the second Directive on Television without Frontiers
- Proposal on measures for the promotion, production and distribution of European

works in the audio-visual sector (MEDIA III programme)

Actions relating to infrastructure include :

- Report on the implementation of Directive 95/47/EC on the use of standards for the transmission of television signals and verification of the transposition of this Directive by the Member States, and an assessment of the need to amend the Directive.
- Communication on the public consultation on the radio spectrum Green Paper

ANNEX 1 :

THE SECOND STAGE OF PUBLIC CONSULTATION, JULY-NOVEMBER 1998

In order to deepen the debate on three key issues, where a need for further reflection was perceived, the Commission's Working Document identified three areas for further comment:

1. Access to networks and digital gateways in a converging environment
2. Creating the framework for investment, innovation, and encouraging European content production, distribution and availability, and
3. Ensuring a balanced approach to regulation

Nearly 90 contributions were received during this second stage of consultation. The vast majority of these confirmed the three areas identified by the Commission as crucial to the convergence debate.

Question 1: Access issues

There was general agreement that access issues, including access to the local loop and to gateway facilities, was a key factor for the development of competition, and provided the most pressing case for regulatory attention. It was claimed that network access is of strategic importance because of the way it links network operators, service providers and end-users.

Comments on the access issue centred on two areas:

- whether the initial focus of regulation should be on service-based competition, or on encouraging the emergence of competing infrastructures; and
- whether in the converging environment regulation should play a prominent role alongside the application of competition law.

Competition based on services or infrastructure provision

Views were evenly balanced between those favouring service-based and infrastructure-based competition. Among the former were new entrants and established broadcasters, who saw advantages in having early access to customers without having to finance heavy investments in infrastructure before building up revenues from service provision. Broadcasters generally supported service-based competition as a means of widening their reach to the full range of platforms that convergence was making possible.

The thrust of the service-based competition argument is that opening access to infrastructure, in particular the local loop, is essential for the development of a large variety of information society content services (fast on-line access, streamed video, VOD, etc.), which will need to reach as many potential users as possible if they are to be successful. Giving operators access to a critical mass of customers at the earliest possible stage would lead to a more rapid introduction of competition in the provision of services, where the opportunities for innovation and the benefits in terms of consumer choice were greatest. According to this view, open access to networks for the maximum number of service providers on fair, reasonable and non-discriminatory terms would also provide a firm financial basis for investment in infrastructure provision by different players in the longer term.

Incumbent telecommunications operators generally disagreed, opposing concepts such as local-loop unbundling on the basis that they acted as a major disincentive to investment in new infrastructure for all parties, incumbents and new entrants alike. They preferred such access to be

granted on a managed network basis, making use of the operators' own technology and interfaces for the local loop. They also considered that they should be free to determine the type of usage of their platforms – in particular with regard to future digitisation. In support of their arguments, these and other observers pointed to the emergence of alternative modes of access to customers (wireless, cable, satellite), claiming that it would be difficult therefore to define the local loop as an enduring bottleneck facility to which regulated access obligations could be applied.

Not all commentators shared such an optimistic view of the prospects for different infrastructures, claiming that it would be unrealistic to suppose that alternative networks would be deployed generally throughout the EU. It was suggested that immediate moves to regulate local-loop unbundling might be premature and that other regulatory strategies were possible, such as transitional measures or measures directed at less densely populated areas where infrastructure competition is less likely to occur. Some commentators pointed out that encouraging wireless access also meant that current frequency spectrum constraints would have to be addressed.

The perception of a network element like the local loop as a bottleneck was at the heart of the disagreement. The underlying fear on the part of new entrants appeared to be that dominant facility-based operators active also in service provision would leverage quasi-monopoly positions in carriage to disadvantage them. Cable operators were wary of targeting only bottleneck facilities for access regulation purposes. In their view, the nature of players seeking access, particularly if they are dominant in the same or other parts of the supply chain, should also be taken into account.

One national regulator warned of the dangers of a doctrinaire approach, arguing that further analysis is needed to verify whether local access networks were not in fact natural monopolies; in that event competition would not be sustainable, and initial investments would be a waste of money.

Member State government bodies emphasised the need, in devising the most competitive conditions of supply, to take account of general interest objectives, particular pluralism. Some public broadcasters suggested that at least partial public ownership of some infrastructure would appear desirable, so that non-commercial, community-owned and operated services could be assured access.

Relationship between sector-specific regulation and competition law

Views on the place of regulation in the area of access in addition to the standard application of competition law were divided between

- those who supported a continuing role for sector-specific economic regulation
- those preferring an approach based solely on applying the competition rules
- those seeking a gradual phasing-out of sector specific regulation as a competitive market develops

A continuing role for specific regulation. Commentators supporting a continuing role for specific regulation did so from two standpoints. Firstly, many parties, including governments, incumbent players and new entrants, recognised that sector specific regulation would be needed to ensure that public interest objectives were defined in a precise legal framework, on the basis that such objectives were not covered by general competition law. Some thought that the notion of access was so fundamental to the proper development of the information society that reliance solely on general competition rules would be inadequate.

Secondly, from the economic standpoint, a number of parties, both incumbent and new entrants, argued that specific regulation provides legal certainty for investors and the timely solution of problems of anti-competitive practice, without which anti-competitive positions could become

entrenched before any *ex-post* application of the competition rules could be effective. More specifically, as long as basic access and supply cannot be guaranteed in a converged environment, sector specific regulation would be needed in addition to the common competition rules.

According to one commentator, regulation also has the effect of creating a national body of expertise in Member States, which could also be used to apply competition law in the sector, either by arranging for the same authorities to be responsible for both regulation and competition or by suitable co-operation between different national authorities.

Most advocates of specific regulation considered that it should:

- apply to vertically-integrated providers of local-loop facilities, voice-telephony and on-line services,
- cover non-discriminatory access, separation of accounting systems between facilities and services, local-loop pricing, and
- guarantee consumer choice of service provider.

Approaches to network access such as local-loop unbundling would, it was thought, necessitate the involvement of the regulator on a long-term basis.

Some commentators thought that in a converged environment the regulatory focus should shift from access to networks to access to services and bottlenecks. One regarded exclusive ownership of key content as a potential bottleneck, arguing that broadcasters' with rights to premium content could abuse this power by forcing new entrants to buy other services in addition to the premium content in question. However, some commentators recognised the value of an exclusive relationship between content and carriage in launching new services. Among them were cable operators, who also thought that they should have the freedom to bundle and market services as they saw fit.

It was considered that regulation should aim at eliminating key bottlenecks as quickly as possible, or, where that is not practicable in the short term, establish effective control over them. Although the technological neutrality of regulation was a concept well supported in the consultation, it was thought that this might not apply in situations where scarcity resources remained, for example in certain parts of the frequency spectrum.

Public broadcasters stated that sector-specific rules for broadcasting would continue to be needed in the future. In addition, they claimed that the distribution of broadcasting services over cable television networks would need to be regulated, to ensure must-carry rules, to protect the service operators and users in view of the gatekeeping role of some network operators, and to guarantee that public service broadcasting services should be accessible to all. They considered that access to frequencies for less profitable public services should be guaranteed. Some even considered that all communications infrastructures should be considered as essential facilities. An opposing view was that *must-carry* obligations and other regulatory measures could be obstacles to investment.

The view was expressed that the protection of consumers can be best achieved by a suitable combination of regulation and competition law.

Some commentators thought that regulation should not be used to create markets; rather it should define the parameters within which markets can develop.

Favouring a competition-law approach. Incumbent telecommunications operators, IT companies and some cable operators and content providers thought competition policy should be the primary instrument of market control. For some, this was also a way of ensuring consistency of access regulation across different platforms, and the only way of ensuring that the legal environ-

ment can keep pace with rapid changes in technology and markets. It was claimed that the existing regulatory models duplicated competition law and were counter-productive, an effect compounded by their often-divergent administration by different and separate authorities. A general view was that competition law worked best in mature rather than embryonic markets.

Some commentators, mostly new entrants and IT companies, thought that a market approach (i.e. applying competition law only) would be more likely than a regulated one (i.e. applying specific regulation also to bring about a satisfactory return on investment, and that the market rather than regulation would bring about open systems in the interests of sustainable competition and consumer benefits. One national regulator considered that most gateways in digital communication networks did not need special rules in addition to generic cross-sectoral legislation such as European competition law, and that the objectives of any regulation needed to be clearly identified before it was applied. It concluded that not all gateways were bottlenecks and not all bottlenecks justified *ex-ante* regulation. Indeed, some incumbent telecommunications operators stated that application of the competition rules should focus on bottlenecks defined in terms of essential facilities impossible for new entrants to reproduce economically. Others warned that taking the essential facilities doctrine too far risked dampening incentives for investment and innovation.

The means and timeframe for sector-specific regulation

Responses to this part of the Working Document's question on access encompassed views expressed on :

- any transitional role for regulation (the third grouping described at the beginning of the previous section) ; and
- the effectiveness of self-regulation as a regulatory tool.

A large proportion of those favouring the competition-law approach recognised that *sector-specific* regulation could only be phased-out after a period of transition towards a mature competitive market. To this end, one of the main purposes of transitory regulation should be to encourage the early onset of competition. The general view was that during the transitional period, special rules on aspects such as pricing, standards, interoperability and temporary bottlenecks would be gradually relaxed in accordance with criteria based on the development of competition. Several commentators saw flexibility and national discretion as essential in this process in view of the need to recognise the varying degree of competition in Member States, and nature of the transition to a competition-based approach. This would not be accomplished necessarily at a given time, but would be tied to certain trigger points or thresholds associated with the criteria referred to above. Notions of "regulatory forbearance" or "sunset clauses", already in use elsewhere, were mentioned as useful concepts in this regard.

The scope of sector-specific regulation

The Working Paper's distinction between access to networks and access to digital gateways was supported by some, but questioned by others. This latter group argued that the two issues raised the same problems and solutions. However, some commentators thought it important to retain flexibility, as different regulatory approaches may work for different parts of the network and different gateways. These views are not seen by the Commission as necessarily contradictory. A unified approach, flexibly applied, would facilitate the sort of horizontal regulation of infrastructure that had been highlighted during the first round of consultation.

Many observers considered that sector-specific regulation would continue to be necessary to cover the provision of access control to digital services derived from Digital Television platforms, wherever the provider of that access control would have a significant opportunity to exercise bottleneck control (thereby unduly influencing competition in the associated markets). Vertical integration was seen by commentators as both necessary, as a logical means of spreading risk in a market which requires major investment, and as problematic in terms of reinforcing gateway

control. Comments were inconclusive as to whether regulation or competition law should deal with such problems, although one saw a role for regulation in forcing vertically-integrated players to hold separate accounts for their activities in each part of the value chain.

Consumer organisations pointed to problems of consumer lock-in derived from control of gateway facilities giving rise to early equipment obsolescence, excessive subscription increases, and forced bundling of services.

There was particular attachment to the importance of standards in the development of the market for digital services having as their starting point today's digital television platforms. A recurrent theme of the comments received was the role of open European standards in promoting the development and growth of Information Society services by removing technical barriers to access and ensuring interoperability.

Most (though not all), of these stopped short of stating that such standards should be mandatory, suggesting that it should be an industry-led process. Many suggested the conditional access provisions of the existing Television Standards Directive (95/47/EC) as a model for the regulation of digital services in the future. Fair, reasonable and non-discriminatory access to Electronic Programme Guides (EPGs), Application Programming Interfaces (APIs) and Set-top box memory were areas cited by a number of contributors including broadcasters, and regulators as in need of regulatory attention in order to guarantee both competition and pluralism. Some IT and telecommunications companies pointed thought that such gateway facilities should be regulated in the same way as Internet browsers, namely by effective application of the competition rules, otherwise there would be an inconsistency of approach.

One operator felt that efforts should be made to eliminate fundamentally different national rules in the relevant sectors, by promoting the harmonisation of remaining regulations in relation to the degree of convergence and competition in Member State markets.

Digital radio broadcasting was seen as a special case, and in view of issues relating to frequency allocation, business pricing models and investment needs, was considered to be outside the scope of this particular discussion of regulation.

In summary, commentators considered that with regard to the regulation of access:

- a balance would have to be struck to avoid the pitfalls of over-regulation while at the same time meeting legitimate public interest requirements and encouraging sustainable competition in the marketplace.
- gateways, bottlenecks and essential facilities would need to be clearly defined, and decisions would need to be made as to which such bottlenecks or essential facilities will require sector specific regulation in addition to the standard application of competition law in order to realise stated policy objectives.

Question 2 : A framework for investment and innovation

Evolution and promotion of European audiovisual content

There was widespread agreement that attractive audiovisual content was the key to success in a digital environment. Many contributions also emphasised the increased demand for (and price of) premium audiovisual content that would arise as a result of channel proliferation and increasing competition between broadcasters.

In addition, it was argued that channel proliferation would further fragment the European audiovisual market, thereby making it yet more difficult for certain audiovisual productions, in particular those aimed at smaller national and regional markets to recoup their costs: this would lead to increased pressure on broadcasters to opt for cheaper imported or archive material and consequent deleterious effects on quality and cultural diversity. Consequently, there were strong expressions of support from broadcasters, producers and distributors, the creative Community and certain Member States for continued measures to promote European audiovisual production.

However, it was widely recognised that current measures to promote European audiovisual content production would have to be adapted to the digital environment. The following elements were, *inter alia*, most frequently put forward as part of a favourable framework for European content production :

- A stable, consistent and coherent regulatory framework ;
- Regulatory requirements with regard to the production of European *audiovisual* content (In this regard, many contributions argued that content requirements based on broadcast time were rapidly becoming obsolete and that consideration should be given to mechanisms based on investment requirements.);
- Strong copyright protection ;
- Fiscal incentives and financial guarantees and targeted support mechanisms such as the MEDIA programme ;
- Open and interoperable technical standards (though the particular standards chosen should not, as a rule, be imposed by regulators but developed through self-regulation).

It was recognised that the production of attractive, quality audiovisual content was first and foremost a matter for the industry itself. Nevertheless, financial support mechanisms at European level were seen as playing an important role in promoting production and distribution at European level. With regard to the MEDIA programme there were calls for it to be opened up to broadcasters, for yet more emphasis on training, for automatic support systems⁷ to improve the circulation of European works and their export, as well as for greater co-ordination and complementarity with other European funds available. In addition, many felt that broadcasters represented a major strength for Europe but were insufficiently taken into account in existing support mechanisms.

Some contributors, including a number of commercial broadcasters, argued against this approach and called for content production to be left to the market. They argued that content requirements could represent a barrier to market entry and decrease competitiveness. Moreover, audiences showed a preference for local, culturally relevant production, so the market would of itself pro-

⁷ Automatic schemes are schemes whereby financial support (in whatever forms – grants, loans, etc) is automatically given to a producer (or a distributor), either on a film-by-film basis or on the basis of a slate of films (or programmes), on the basis of an objective set of criteria. A simple example is when a particular film achieves a million entries, and the scheme provides for support at, say, 1 Euro per entry, the production/distribution company will receive 1 Million Euro to invest in the production of its next film. Automatic schemes reward success.

vide for quality and cultural diversity. In particular, there were warnings that content requirements should not be extended to areas where they were inappropriate, such as fully interactive services, and that support for the audiovisual industry should not be allowed to distort competition with multimedia products.

Finally, many contributors stressed the central role of public service broadcasters in producing European works and establishing a benchmark for quality. Connected to this, others called for measures to ensure that funding of public service broadcasters would not create distortions of competition with commercial broadcasters or with providers of new services.

Taking account of the level of investment

There was widespread agreement on the need to encourage or at least remove obstacles to the high levels of investment needed, including for RTD, but less clear views on how this could be achieved. Many contributions referred to the difficulties of predicting the future and the dangers of regulatory "second-guessing" in terms of promoting certain standards or platforms. In general, it was argued that the regulatory framework should encourage competition and market entry, must be flexible enough to take account of rapid economic and technical developments, but must be stable enough to ensure that early investment takes place. Other contributors added the caveat that encouraging investment should not be interpreted so as to permit distortions of competition by dominant market players.

Many contributors argued that, in terms of encouraging the necessary investment, judicious application of competition law would be more a more effective approach than regulatory measures to promote particular standards, platforms or services. Regulatory measures with regard to this question were seen more as transient measures aimed at the creation of open and competitive markets. However, other contributors added that competition authorities should take account of the huge investments needed, which meant, inter alia, paying particular attention to the definition of relevant markets. Where regulation was necessary with regard to price levels, regulators should take into account the fact that the pricing of successful services often contained an element needed to cover the costs of less successful ones.

In conclusion, the consensus of opinion centred around the view that the right way to take account of investment needs was to establish a consistent, predictable and technology-neutral regulatory framework.
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Question 3 : Ensuring a balanced approach to regulation

Balance between securing public interest objectives and facilitating the development of open competitive markets

Perhaps the most important common element in the responses to this question was the view that there is no necessary contradiction between the development and achievement of open competitive markets and the securing of public interest objectives. Indeed, many contributions saw considerable overlap in these two goals. In general, open and competitive markets were seen as making a necessary but not always sufficient contribution to securing certain public interest objectives such as universal access, affordable prices, pluralism and diversity. With regard to public interest objectives such as the protection of minors and human dignity, open and competitive markets could not contribute.

Similarly, many responses saw no necessary conflict between the application of sector-specific rules and the application of the principle, as put forward in the Green Paper, that regulation should be limited to what is strictly necessary to achieve clearly identified objectives.

Following on from this, there was a very clear consensus that the regulation of infrastructure and content required separate and differing approaches. With regard to content regulation, other contributions added to this the argument that securing certain public interest objectives also implied

different approaches vis-à-vis one-to-one communications and one-to-many (broadcast) communications : it was argued that, with regard to public interest objectives such as the protection of minors, pluralism and cultural diversity, the pervasiveness of the medium should be taken into account and that regulation should be graduated accordingly.

Whilst there was agreement on the benefits of open and competitive markets, there were differences as to how to achieve this goal. Some placed more emphasis on sector specific rules, arguing that these were needed at very least for a transition period in order to address issues of market dominance and access and to bring such markets into existence. Others stressed the need for minimal regulation in order to remove barriers to the development of competitive markets and new services, arguing that concepts such as universal service and public interest should be reviewed in the light of technical, market and social developments. There were many calls for clear definitions of public interest objectives as well as calls for the remit of public service broadcasters to be defined.

Proportionality of sector-specific rules

Whilst many responses highlighted the importance of the principle of proportionality, few attempted to outline specific criteria to ensure that sector-specific regulation is proportionate. Some regarded this as unnecessary, even unrealistic and argued instead for the application of principles.

With regard to public service broadcasting and the proportionality of sector specific rules and competition law, several contributions referred to the Protocol on the System of Public Broadcasting in the Member States attached to the Amsterdam Treaty. Some emphasised the role played by public service broadcasting in ensuring that consumers have access to diverse and high-quality programming, whilst others drew attention to possible distortions of competition arising from the funding of public service broadcasters, particular in new services.

Role of self-regulation in achieving this balance

Many responses put forward the view that self-regulation could play an important role in achieving a balance between establishing competitive markets and safeguarding the public interest. Self-regulatory measures could, it was argued, make a significant contribution to the achievement of public interest objectives, in particular with regard to content – the protection of minors and human dignity, advertising standards, programme quality and so on. Most contributors held the view that the role of self-regulation would increase in the future, due to factors such as the development of the Internet and the proliferation of television channels in the digital age.

While self-regulation was also thought to be useful in markets where competition is already working effectively, most commentators thought it to be a less effective replacement of regulation either in economic terms (for example in dealing with abuse of first-mover dominance) or in addressing all political, social and cultural goals. There was some support for the role of self-regulation in standards setting, with some commentators suggesting a role for regulation in cases where industry-led bodies fail to agree on common standards.

Other responses, whilst recognising the advantages and potential benefits of self-regulatory measures, such as enhanced flexibility and adaptability, and recognising also the difficulty and inappropriateness of applying existing regulatory approaches to communication media such as the Internet, nevertheless cautioned against excessive reliance on such measures. It was pointed out, for example, that self-regulation could favour undertakings holding significant market power, such as incumbent telecoms operators, since these often had sufficient resources to dominate industry fora and decision-making processes. These responses argued that self-regulation could complement regulation but could not dispense with the need for a regulatory framework. Some highlighted the need for regulatory back up, to provide legal security should self-regulation mechanisms fail or to ensure that self-regulation is effective.

With regard to the scope and extent of self-regulation, certain responses argued that factors such as how consumers access services, the expectations consumers have with regard to content as well as their ability to filter out unsuitable content should be taken into account. Where individual users had more control over the content they received, self-regulatory measures were held to be more appropriate and effective and less restrictive in the development of new services and demand for them.

There were few detailed responses on who should participate in setting up and implementing self-regulatory measures, but widespread support for support for the principles of openness, transparency and inclusiveness : in order for it to be effective, many called for the full participation of industry, but also of relevant stakeholders such as consumer associations, in the self-regulatory process. The European Commission and relevant government Ministries were called on to support such activities.

Securing public interest objectives and facilitating the development of open and competitive markets are not seen as contradictory aims. Separate approaches to the regulation of infrastructure and content were seen as a way to achieve the desired balance.

Self-regulation could also contribute to the achievement of this balance, particularly in markets where competition was assured but also with regard to certain public interest objectives in the content sectors.

ANNEX 2 :

DISCUSSIONS ON CONVERGENCE IN OTHER FORUMS

The Birmingham Audiovisual Conference, 6-8 April 1998

A *European Audiovisual Conference* was held in Birmingham in April 1998, under the aegis of the UK Presidency, entitled "Challenges and Opportunities of the Digital Age".

One of the four Working Groups set up by the conference was charged with considering "The Right Regulatory Framework for a Creative Media Economy in a Democratic Society". The Recommendations are summarised below:

- (a) For the foreseeable future, the Regulatory approach should combine Option 1 of the Green Paper on Convergence (building on the existing framework), with Option 2 (the creation of new regulatory categories). Sector specific regulation should be retained and expanded and the regulatory focus should distinguish between infrastructure and content.
- (b) The recycling of revenue into the creation and production of content must be a priority policy objective. Fair and reasonable regulatory obligations for investment in EU content are one way of achieving this. Appropriate measures should also be taken to facilitate the availability of rights.
- (c) All Member States should define their public service broadcasting mission and should provide for financial transparency as regards commercial services provided by public service broadcasters
- (d) Where self-regulation or technology does not provide for openness and transparency of gateways, in particular conditional access systems, navigator systems and APIs (Application Programme Interfaces), regulatory intervention should be considered.
- (e) With regard to on-line services, self-regulation is probably the best approach, though this should be underpinned by regulatory measures to ensure it is effective. Self-protection by users should also be encouraged and could involve labelling of content and the use of filtering devices.
- (f) The European Commission should encourage Member States to adopt a calendar for analogue switch-off as soon as possible and should promote co-ordination at the EU level with regard to frequency selling. Member States should ensure that existing analogue services are able to migrate to the new digital frequencies.
- (g) Regulators in the EU should build on existing structures for co-operation, with a view to promoting the exchange of information, the elaboration of "best practice" rules and achieving consistency between Member States.

Report of the High-level Group on Audiovisual Policy, October 1998

The High-level Group on Audiovisual Policy, set up by Commissioner Marcelino Oreja in 1997, is composed of a broad cross-section of representatives of the audiovisual industry including commercial and public service broadcasters, regulatory authorities, the cinema sector and the creative community from a number of different countries. In drawing up its Report "The Digital Age : European Audiovisual Policy"⁸ the Group devoted a considerable amount of time to the convergence issue and one section of the Report deals specifically with the question of the Legal Framework and Regulatory Bodies in the Digital age. The Group has adopted recommendations on the future regulatory framework along the following lines:

- there will continue to be a need for specific regulation for audiovisual content, based on the fundamental distinction between public and private communication;
- regulation should encourage innovation and competitiveness;
- licensing procedures need to be simplified and the level of regulation adapted to the nature of the service;
- the regulatory framework must be clear and consistent to avoid subjecting the same service to two sets of regulatory requirements with different objectives;
- the regulatory framework should abide by certain principles and in particular it should encourage competition, pluralism and open, non-discriminatory access;
- the regulatory framework may take account of other, more specific, public policy goals, primarily set at national level;
- the regulatory framework should encourage the development of digital services and a smooth transition to an all-digital environment;
- whether there is one regulator for technological aspects and another for content aspects, or a unified regulator administering both sets of rules, is for national governments to decide;
- where there is more than one regulator, they will increasingly need to co-operate between themselves and with the competition authorities;
- European-level co-operation between national regulators should be encouraged to ensure mutual understanding and a degree of consistency;
- at a global level, it is essential that the specificity of the sector continues to be recognised and that the principle of the "cultural exception" be applied in international trade negotiations.

In conclusion, the group agreed that the regulation of services providing content cannot be dealt with in purely economic terms. The key element is rather the nature of the service.

The Group also held that digitisation of the electronic media would bring immense benefit to consumers and companies and that its advent would be greatly facilitated by a climate of confidence that a clear, predictable and strictly proportionate legal framework can help to provide.

⁸ The Digital Age : European Audiovisual Policy. Report from the High Level Group on Audiovisual Policy (Luxembourg 1998, ISBN 92-828-4690-3)

Vienna Conference on convergence, 3 November 1998

The high-level conference organised by the Austrian Presidency in Vienna on 3 November 1998, attended by business circles, the Member States and members of the European Parliament, endorsed these recommendations and formulated some others:

- Confirmation of the fact that it is essential to create a clear and consistent framework - and no longer just sectoral since the phenomenon of convergence goes beyond this - so that the opportunities available are exploited to the full by Europe and firms can take investment decisions and promote the development of electronic trading.
- On the basis of experience gained in the telecommunications sector, where the liberalisation of markets has achieved its objective, there is no cause for concern regarding future developments.
- Future regulation must represent a balance between competition, regulation and support and development measures and market objectives - free competition - must be set against political objectives aimed at protecting the public interest, particularly consumers (promotion of low-cost, high-performance services, quality content, protection of general interests: universal service in particular).
- The desire to see a tendency towards separate regulation for infrastructure and content was reaffirmed. Questions of access to the new technologies, particularly for the citizen/consumer, were also seen as crucial and synonymous with socio-political and/or socio-cultural progress. This question of access to networks affects the distribution of content. The consumer must therefore have access at a reasonable cost to services on the basis of genuine competition between the various suppliers. Otherwise a two-speed society could emerge. It was also stressed that training for such access to the new technologies is vital.
- It was also emphasised that no operator should have exclusive control over access. In this connection, the search for a unified European solution regarding the position of the consumer must be pursued in order to ensure that European industry can face up to the fierce competition from across the Atlantic.
- The production of European content should be encouraged at the level of the European Union and the Member States: quantity but above all quality must be guaranteed in the explosion of services on offer and information flows. Convergence is a challenge to the creation and quality of content and is not merely a question of technology and competitiveness. In the audiovisual sector, the costs of providing consumers with quality products, particularly films, continue to escalate.

Seminar on Audiovisual Media and Authorities, Vienna, 29 November 1998

Entitled *Audiovisual Media and Authorities: tasks and challenges for regulators in an evolving media landscape in Europe*, this expert seminar was organised jointly by the Austrian Presidency and the European Commission. It brought together government administrations, audiovisual regulators, private and public broadcasters as well as legal experts from the academic world. The main points emerging from the seminar were:

- The central issue to address should be how to guarantee pluralism, democratic values and cultural diversity ;
- Private broadcasters pointed to the dangers and hindrances of excessive regulation, in particular with regard to the development of new services and competitiveness, whilst public broadcasters pointed to the dangers of inadequate regulation, which could lead to limitations on pluralistic expression which would be difficult to correct after the fact ;
- There was a consensus on the specificity of the audiovisual sector and the consequent need for regulatory measures which addressed this specificity ;
- Self-regulation would inevitably play a larger role in the future media landscape, given the nature of the technological changes taking place. However, self-regulation should be backed up by a regulatory framework laying down at least the principles, which should apply, and the objectives to be attained.

ANNEX 3: LIST OF CONTRIBUTORS TO CONSULTATION

Table 1: List of contributors to the first round of public consultation

STATES, REGULATORS AND EU INSTITUTIONS	ASSOCIATIONS	COMPANIES, INSTITUTIONS AND INDIVIDUALS
<ul style="list-style-type: none"> • Administration Espanola • ART Autorité de régulation des télécommunications (France) • Broadcasting Standards Commission • Bundesrat • Bundesrepublik Deutschland • Bundesverband DeutscherZeitungsverleger • Communauté française de Belgique • Consejo de la Comisión del Mercado de las Telecomunicaciones de Espana • CSA Conseil supérieur de l'audiovisuel (Paris) • Danish Govnt • Department of Public Enterprise (Dublin) • DLM Direktorkonferenz der Landes- 	<ul style="list-style-type: none"> • ACT Assoc de Televisions Commerciales- Bruxelles • ACTS Multimedi Domain • AER Association of European Radios- Bxl • AETEA Assoc. Euro des telespectateurs et auditeurs- Paris • AFA assoc des fournisseurs d'acces- Paris • AIT Assoc des Ingenieurs des Telecommunications • AMARC EUROPE Association mondiale des radiodiffuseurs communaux (UK) • Associated Newspapers Ltd. (London) • Avica assoc des villes cablees - Paris • BDI Bundesverband der Deutschen Industrie (Köln) • BECTU Broadcasting Entertainment Cinematograph & Theatre Union (London) • BEUC Bureau européen des unions de consommateurs • British Music Rights Ltd • Bundesfachkommission Innovation und Information & Wirtschaftsrat Brüssel • Bundeskammer für Arbeiter und Angestellte (Wien) • CCA Cable Communications Association • CCE Consumer Communications for England • Centre Co-opératif de la consommation • CEEP • CICI Confederation of Information Communications Industries (London) • Cigref Club Informatique des Grandes Entreprises Françaises • CITPA Confédération internationale des transformateurs de papier et carton en Europe • CNPF Conseil National du Patronat Français • COIT Colegio Oficial de Ingenieros de Telecomunicación (Madrid) 	<ul style="list-style-type: none"> • AFMA Europe- Harrow • Airtel Móvil SA- Madrid • AirTouch Communications • Alcatel • AMCHAM EU Committee • AOL • Arbeitsgruppe "Demokratie une Multimedia Wirtschaft" • Arbeitsgruppe des Katholischen Zentrums (...) Österreich • ARD-Gremienvorsitzende • ARD/ZDF • BBC • Belgacom • Bertelsmann AG • Bouygues Telecoms et 9 Telecoms • BT • Bull • Cable & Wireless Communications • Cable Management (Ireland) • Canal + • Cegetel • Cellnet • Cisco Systems • Clarke Jim • ComECE • Communications International • Conseil de l'Europe • Cornavcom Ltd • Cox, Arthur • CSI Coalition of Service Industrie (Washington)

<ul style="list-style-type: none"> • Medienanstalten • ECOSOC • EP-Culture Committee • IPBT Institut belge des services postaux et des télécommunications • ITC Independent Television Commission • Landtag Nordrhein-Westfalen • Luxembourg • Ministero delle Poste e delle Comunicazioni (Italia) • Ministry of Transport & Communications (Finland) • Nederlandse Regering • OFCOM Office fédéral des coms. (Suisse) • Office of the Director of Telecommunications Regulation (Ireland) • OFTEL • OPTA Dutch national regulatory authority for Post and Telecommunications • Radio Authority 	<ul style="list-style-type: none"> • Conseil National du Patronat Français • Consumers Assoc • Cost 219 UK • CSPG Cellular Service Provider Group of FCS • DAB-Plattform e.V. • DAG Deutsche Angestellten-Gewerkschaft • Deaf Broadcasting Council • Deutsche Postgewerkschaft • DGB Deutscher Gewerkschaftsbund (Düsseldorf) • DigiTAG • Digital Video Broadcasting • DIHT Deutscher Industrie- und Handelstag (Bonn) • EAAA European Association of Advertising Agencies s.c. (Bruxelles) • EACEM European Association of Consumer Electronics Manufacturers • EAT European Advertising Tripartite (Bruxelles) • EBU European Blind Union • ECCA European Cable Communications Association • Ectel/ Eurobit The Eur. Telecom. and Prof. Electronic Industry/ Eur. Ass. of Manufacturers of Business Machines and IT Industry • EFTA • ENPA European Newspaper Publishers' Association (Bruxelles) and Newspaper's Society • EPC European Publishers Council • ETNO European Public Telecommunications Network Operators Association • ETP European Telecommunications Platform (Bruxelles) • ETUC European Trade Union Confederation • EURALVA European Alliance of Listeners' & Viewer's Association (Gravesend) • Eurim European Informatics Market • Eurocinema Association de Producteurs de Cinéma et de Télévision (Bruxelles) • Euro-Mei • Fachverband Consumer Electronics • FAEP Fédération européenne d'éditeurs de périodiques (Bruxelles) 	<ul style="list-style-type: none"> • DATSA BELGIUM • De Backer, Walter • Debitel Kommunikationstechnik GmbH • Deutsche Telekom • Donau Universität Krems (J. Günther) • EITRT European It Industry Round Table (Bruxelles) • Energis • Ericsson • ESAT DigiFone (Dublin) • ETP European Telecommunications Platform (Bruxelles) • European Federation of Journalists • Finnet Group • Fischbach Rainer • France Telecom • France Television • Grewlich Klaus • Horvath, John • ICC International Chamber of Commerce (Paris) • Intel GmbH (Muenchen) • Ionica (Cambridge) • ITV Independent Television Association (London) • Klasse Med. 96 Handelsschule Wandsbek (Hamburg) • KPN Telecom • Kuhne, Helmut • LAB Legal Advisory Board • Lucent Technologies • Lyonnaise Cable • MBM Medienberatung München GmbH (Neubiberg) • Mannesmann Eurokom • Marconi • Martin Dawes Telecoms • Mayer-Schonberger, Viktor • Mediaset SpA (Bruxelles) • MTV Networks Europe (London) • NGO- Comité de liaison • Nilsson Nils
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<ul style="list-style-type: none"> • (London) • République Française • Republik Österreich Bundesministerium für Wissenschaft und Verkehr • Royaume de Suède • TKC Telekom Control (Wien) • UK Permanent Representation to the EU • Vlaamse Gemeenschap 	<ul style="list-style-type: none"> • FEDMA Federation of European Direct Marketing • FEI Federation of the Electronics Industry (London) • FEP Federation of European Publishers (Bruxelles) • FERA Fédération Européenne des Réalisateur de l'Audiovisuel (Bruxelles) • FIA Fédération internationale des acteurs (London) • FIAD Fédération internationale des associations de distributeurs de films (Paris) • FIEEC Fédération des industries électriques, électroniques et de communication • Finnish Assoc of Graduate Engineers • GFT Gesellschaft für Technikgenese-Forschung e.V. (Berlin) • GITEP Groupement des Industries de Télécomm. et d'Electronique Professionnelle • Greek Film & TV Producers Assoc • Groupe de Bruges • Hermes Europe Railtel • HLSG High Level Strategy Group for ICT (Ipswich) • ICPB International Consumer Policy Bureau (Edinburgh) • ICRT International Communications Round Table (Bruxelles) • IDA International Datacasting Association (Dublin) • IFRRO International Federation of Reproduction Rights Organisations (Bxl) • IG Medien Industriegewerkschaft Medien (Stuttgart) • IMRO Irish Music Rights Organisation (Dublin) • Independent Radio Forum • Initiativkreis zur Forderung des öffentlich-rechtlichen Rundfunks • INTUG International Telecommunications User Group (Namur) • Irish Business Bureau • Irish Cable Industry • ISF Information Society Forum • ISUPE Initiative pour des services d'utilité publique (Paris) • ITA International Telemédia Association (London) • Joint Committee of Telecommunications • National Consumer Council • National Union of Journalist 	<ul style="list-style-type: none"> • Nokia • Northing AS (Oslo) • Nortel Northern Telecom • NOS Nederlandse Omroep Stichting (Hilversum) • NPOE Netherlands Platform Older People and Europe (Utrecht) • NTP Nederlands Televisie Platform (Hilversum) • Olivetti • OLON Organisatie van Lokale Omroepen in Nederland (Nijmegen) • One 2 One • OTE Hellenic Telecommunications Organization SA (Athens) • o.tel.o communications GmbH & Co • Pallares Adolfo • Panafon Hellenic Telecommunications Company • Phillips European Affairs Office • Portugal Telecom • Post & Telekom Austria • Publishers Association Ltd. (London) • Radio Praha • RTE Radio Telefís Éireann • SEMA Group (Madrid) • S4C (Wales) • Simmons & Simmons • Sirius • Smith Graham JH • Sobokta, Hans • Sonera Corp (Finland) • Telecom Eireann • Telecom Italia SpA • Tele Denmark • Telefonica • Telenor (Oslo) • Telepadova • Teletext
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<ul style="list-style-type: none"> • Neuromedia International • NorDig Assoc (Copenhagen) • NRB National Rehabilitation Board (Dublin) • Rat der Evangelischen Kirche in Deutschland & Kommissariat der deutschen Bischöfe • RCO Netherlands Council of Employers (The Hague) • Royal National Institute for the Blind • SABAM Société belge des auteurs, compositeurs et éditeurs (Bruxelles) • SACD Société des auteurs et compositeurs dramatiques • SIX Advisory Group of the European Software and Services Industry • SPIG Service Provider Interest Group (London) • Sutton Park and Lawns Residents Association (Dublin) • TnaG Ireland • UK Notarial Forum • UMTS Universal Mobile Telecommunications System • UNIC Union internationale des cinémas (Paris) • UNICE Union des Confédérations de l'Industrie et des Employeurs d'Europe (Bruxelles) • USCIB United States Council for International Business • VDZ Verband Deutscher Zeitschriftenverleger e.V. (Bonn) • VECAI Dutch association of cable operators • Verein für Konsumenteninformation • VLV Deaf Broadcasting Council • Voice of the Listener and Viewer • WFA World Federation of Advertisers (Bruxelles) • Wirtschaftskammer Österreich • WITSA World Information Technology and Services Alliance • World DAB Digital Audio Broadcasting (London) • Zentralverband des deutschen Hnadwerks • ZVEI Zentral Elektrotechnik- und Elektroindustrie e.V. 	<ul style="list-style-type: none"> • TFI • The Open Group (Cambridge) • Third World Environment Broadcasting Project • Thyssen Telecom • Titan Asbl • Tongue, Carole - MEP • TPS Télévision par Satellite • Turner Broadcasting System (London) • University of London • US West International • VEVAM Vereniging ter Exploitatie van Vertoningsrechten op Audiovisueel Materiaal (Amsterdam) • Vodafone Group Services Limited (Newbury) • VPRT Verband Privater Rundfunk und Telekommunikation E.V. (Bonn) • Westdeutscher Rundfunk • WorldCom International • Yleisradio (Finland) • ZERP Zentrum für Europäische Rechtspolitik an der Universität Bremen
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Table 2: List of contributors to the second round of public consultation

STATES, REGULATORS AND EU INSTITUTIONS	ASSOCIATIONS	COMPANIES, INSTITUTIONS AND INDIVIDUALS
<ul style="list-style-type: none"> • Administration Española • ART Autorité de régulation des télécommunications (France) • Bundesrepublik Deutschland • Danish Govt. • DLM Direktorkonferenz der Landesmedienanstalten • Council of Europe-Culture Committee • ITC Independent Television Commission • Ministry of Transport & Communications (Finland) • Nederlandse Regering • Norway Govt. • OFTEL • OPTA Dutch national regulatory authority for Post and Telecommunications • Portuguesel Govt. 	<ul style="list-style-type: none"> • ACT Association de Télévisions Commerciales- Bruxelles • AER Association of European Radios- Brussels • AFMA Europe - Harrow • AMARC EUROPE Association mondiale des radiodiffuseurs communautaires (UK) • American Chamber of Commerce (EU Committee) • Associated Newspapers Ltd. (= Daily Mail, London) • BECTU Broadcasting Entertainment Cinematograph & Theatre Union (London) • BEUC Bureau européen des unions de consommateurs • British Music Rights Ltd • BSAC (British Screen Advisory Council) • CCA Cable Communications Association • CCC (Catholic Communications Centre) • CCE Consumer Communications for England • CEEP • COMECE (Commission of the Bishops' Conferences of the EC) • DGB Deutscher Gewerkschaftbund (Düsseldorf) • DigitAG • EBU European Broadcasting Union • ECCA European Cable Communications Association • ECCO (European Competitive Carriers Organisation) • Ectel/ Eurobit (The Eur. Telecom. and Prof. Electronic Industry/ Eur. Ass. of Manufacturers of Business Machines and IT Industry) • EITRT (European IT Industry Round Table) • ENPA European Newspaper Publishers' Association (Bruxelles) and Newspapers' Society • ETNO European Public Telecommunications Network Operators Association 	<ul style="list-style-type: none"> • Alcatel • AOL Bertelsmann Online • ARD/ZDF • ASTRA • BBC • BT • Debitel GmbH • Finnet Group • Flextech television • France Telecom • ITV Independent Television Association (London) • Kirch Gruppe • KPN Telecom • Lucent Technologies • Lyonnaise Cable • Mannesmann Eurokom • MCI Worldcom • Microsoft Corp. • MPA • Nilas Nilsson • Nokia • NOS Nederlandse Omroep Stichting (Hilversum) • OLON Organisatie van Lokale Omroepen in Nederland (Nijmegen) • o.tel.o communications GmbH & Co • Reuters • RNIB (Royal National Institution for the Blind) • Sonera Corp (Finland) • Telecom Italia SpA

<ul style="list-style-type: none"> • République Française • Republik Österreich Bundesministerium für Wissenschaft und Verkehr • Royaume de Suède • UK Permanent Representation to the EU 	<ul style="list-style-type: none"> • ETP European Telecommunications Platform (Bruxelles) • EURALVA European Alliance of Listeners' & Viewer's Association (Gravesend) • Eurim European Informatics Market • Eurocinema Association of Producteurs de Cinéma et de Télévision (Bruxelles) • FAEP Fédération européenne d'éciteurs de périodiques (Bruxelles) • FEI Federation of the Electronics Industry (London) • FIA Fédération internationale des acteurs (London) • FIAD Fédération internationale des associations de distributeurs de films (Paris) • FIEEC Fédération des industries électriques, électroniques et de communication • Finnish Association of Graduate Engineers • GESAC (Groupement Européen des Sociétés d'auteurs et compositeurs) • ITV Independent Television Association (London) • SACD Société des auteurs et compositeurs dramatiques • TUFF (Telecoms and Fraud) • VECAL Dutch association of cable operators • VPRT (Verband Privater Rundfunk und Telekom) • World DAB 	<ul style="list-style-type: none"> • Telefónica • Telia AB • Vivendi • Vodafone Group Services Ltd. • VLV (Voice of the Listener and Viewer) • Westdeutscher Rundfunk • Yleisradio (Finland)
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