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Policy Considerations for Audio-visual Content Distribution in a Multiplatform Environment

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COMMITTEE FOR INFORMATION, COMPUTER AND COMMUNICATIONS POLICY**

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Working Party on Telecommunication and Information Services Policies

**POLICY CONSIDERATIONS FOR AUDIO-VISUAL CONTENT DISTRIBUTION IN A
MULTIPLATFORM ENVIRONMENT**

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FOREWORD

This document was discussed by the Working Party on Communication Infrastructures and Services Policy at its meeting in May 2006. The Working Party recommended its declassification by the Committee for Information, Computer and Communications Policy. The Committee agreed to declassify the document in October 2006. The document is published under the responsibility of the Secretary-General of the OECD.

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TABLE OF CONTENTS

FOREWORD	2
INTRODUCTION	5
CONVERGENCE: TRENDS AND FACTS	7
Digitalisation	7
The Internet Protocol.....	8
Development of multimedia devices.....	9
Competition between infrastructures.....	9
Competition between content providers on infrastructures.....	10
IP TV, Internet TV and webcasting.....	11
Globalisation	11
HOW CONVERGENCE AFFECTS POLICY	13
Broadcasting policy.....	13
Common objectives.....	15
CURRENT INSTRUMENTS FOR TELECOMMUNICATION AND BROADCASTING POLICY	18
Must carry	23
POLICY CONSIDERATIONS	28
Checks and balances.....	28
Globalisation	29
Innovation	29
Impact and consumer control	29
Policy instruments in a multiplatform environment.....	30
Market regulators	30
Must carry.....	31
Final Comment: emerging issues	33
REFERENCES	34
NOTES	36
ANNEX	37
How to read the data?.....	37
AUSTRALIA.....	40
BELGIUM - FLANDERS	50
CANADA	56
FINLAND.....	64
FRANCE.....	69
GERMANY	76
ITALY	81
JAPAN.....	87
NORWAY	91

PORTUGAL	97
SWITZERLAND	106
THE NETHERLANDS.....	111
THE UNITED KINGDOM	118
THE UNITED STATES	129
APPENDIX: EUROPEAN UNION LEGISLATION	142

INTRODUCTION

Convergence is at present a key factor in developments underlying the electronic communications sector.¹ The public can see, speak and listen using various media operating over all kinds of networks. Almost any type of content can be converted into a digital form and then exchanged over the Internet, via fixed or mobile connections and using multiple platforms and terminal devices. This has had, and is expected to continue to have, a major effect on electronic communication markets. Telecommunication operators, in effect, have become content providers, broadcasters offer Internet services and network providers provide multiple-play services. Production and diffusion of content is not limited to those with a traditional broadcast licence. All these rapid market changes present great challenges for governments wishing to develop policy to effectively regulate this dynamic field of electronic communication.

Policy frameworks are, in particular, affected, because audio-visual content (AV-content) is now being transmitted over all sorts of networks and devices. In addition, converged networks, markets and technologies are becoming less and less confined to national borders. An international multiplatform environment is emerging where AV content is available anywhere, any time and in any way.

The objective of this discussion paper is to open up the debate between OECD member countries on how to establish a practical transition towards an effective policy for AV-content distribution in a multiplatform environment. In order to do so this paper:

- Discusses specific issues that are confronting policy makers concerning AV-distribution over electronic communication networks.
- Focuses on defining discussion points concerning the transition markets and the process governments have to go through.
- Provides an overview of the different policies and policy instruments that governments are using to face these challenges to inform the debate.

The OECD's Working Party on Telecommunications and Information Services Policy (TISP) has already undertaken work on both convergence and broadcasting. For example:

1. Competition in the video programming distribution market: implications for regulators, DSTI/ICCP/TISP(2004)10/FINAL.
2. The implications of convergence for the regulation of electronic communications, DSTI/ICCP/TISP(2003)5/FINAL.
3. Broadband Audio-visual services, DSTI/ICCP/TISP(2003)6/FINAL.
4. Broadband and telephony services over cable television networks, DSTI/ICCP/TISP(2003)1/FINAL.
5. Convergence and Licensing in Broadcasting, DSTI/ICCP/TISP(99)12.
6. Cross ownership and convergence: policy issues, DSTI/ICCP/TISP(98)3/FINAL.
7. Webcasting and Convergence, OCDE/GD(97)221.
8. Telecommunications and Broadcasting: Convergence or Collision?, OECD, Paris, 1992.

This paper concentrates specifically on the convergence of telecommunications and broadcasting. It focuses on the distribution of AV-content via a broad range of digital technologies including the use of the Internet Protocol (IP) to send content to television and PCs, as well as mobile and portable devices (*e.g.* UMTS or DVB-H). The discussion focuses on the consequences for policy when traditional telecommunication and newly emerging providers enter the content provision market.

Each OECD country has its own heritage and specific national issues relating to both content and broadcasting policy. This paper will *not* address these national issues as far as moral issues are concerned or deal with social values concerning culture, society, decency and democracy that are often part of content policy. However, various instruments and types of regulation that are being used to safeguard public interests will be addressed (the Annex to this document has collated policies in this area for some countries).

There is no clear vision as to where convergence will lead. Future studies foresee a vast range of electronic communication channels, leading to many different scenarios for the audio-visual (AV) sector. This paper does not attempt to predict any specific future for content transmission. But it does examine ways in which technology, markets and usage may evolve.

The single main assumption in this paper is that broadcasting will, for the most part, be defined as the process of *pushing* content digitally through a variety of networks, using a range of technologies and which will be received on all kinds of devices.¹ It is important that policy makers keep all other future options open.

¹ Because of the changes taking place in communications technologies, it is not possible to provide a more accurate definition of broadcasting. The classic definition of broadcasting as 'a radio or television programme or signal for public use' may however still apply for most OECD-countries. In addition, the notion of broadcasting based on 'To transmit to every receiving station within a geographic area' could be reworded to take into account technology changes based on the notion 'to transmit to every node on the network or subnetwork'.

CONVERGENCE: TRENDS AND FACTS

Before entering into any policy discussions, an overview is provided of the trends that make up the multiplatform environment. The effects on the electronic communications markets in general and the broadcasting or AV-content transmission markets in particular are also examined.

Convergence is driven by three factors: digitalisation, the Internet Protocol and multi-media devices.

Digitalisation

Broadcast transmission is currently in transition from analogue to digital². The OECD average of digital TV households is now 27.7% and growing rapidly.

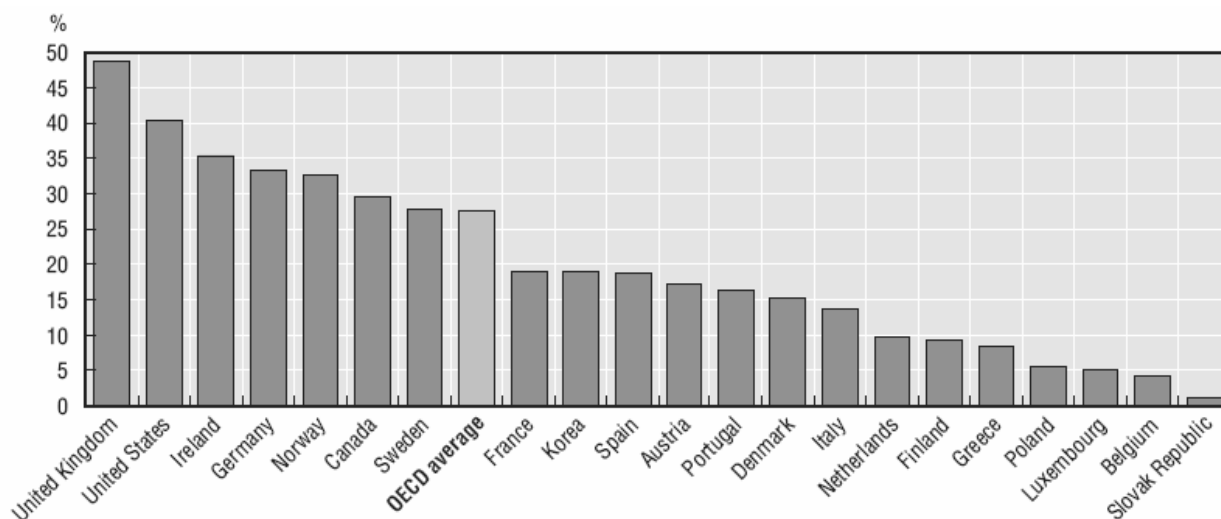
Table 1. OECD TV households

	1995			2002		
	Cable television subscribers as a % of total TVHH	Home satellite antennas as a % of total TVHH	"Terrestrial only" HH as a % of total TVHH	Cable television subscribers as a % of total TVHH	Home satellite antennas as a % of total TVHH	"Terrestrial only" HH as a % of total TVHH
Australia	0.0	0.0	100.0	13.0	8.1	78.9
Austria	28.3	36.7	35.0	33.1	48.0	18.9
Belgium	95.7	6.7	0.0	90.4	6.8	2.8
Canada	74.4	0.0	25.6	64.3	16.9	18.8
Czech Republic	14.8	..	65.2	30.5	14.8	54.7
Denmark	57.7	10.2	32.0	45.3	33.6	21.0
Finland	43.3	8.0	48.7	48.1	16.7	35.2
France	8.6	1.4	90.0	14.7	11.9	73.4
Germany	48.4	29.2	22.4	56.8	37.6	5.7
Greece	0.0	3.9	96.1	0.0	2.0	98.0
Hungary	36.6	22.8	40.6	46.7	22.3	31.0
Iceland	1.3	0.0	98.7	35.0	5.8	59.1
Ireland	48.4	9.1	42.5	43.7	22.2	34.1
Italy	0.0	3.0	97.0	0.4	12.2	87.4
Japan	31.1	26.7	42.2	61.5	36.3	2.3
Korea	48.6	0.0	51.4	72.1	3.4	24.5
Luxembourg	25.8	6.5	67.7	80.2	19.2	0.6
Mexico	7.8	0.0	92.2	10.7	4.2	85.0
Netherlands	99.9	5.0	0.0	92.9	7.1	0.0
New Zealand	0.1	0.0	99.9	2.1	22.6	75.4
Norway	42.8	14.7	42.5	42.4	25.8	31.8
Poland	22.7	0.0	77.3	29.1	20.6	50.3
Portugal	1.8	9.7	88.5	35.4	11.9	52.6
Slovak Republic	23.0	17.8	59.2	40.7	36.9	22.4
Spain	..	6.3	93.7	6.1	14.9	79.1
Sweden	55.7	20.9	23.4	54.2	26.9	18.9
Switzerland	95.5	8.6	0.0	90.4	28.1	0.0
Turkey	3.5	1.9	94.6	6.1	13.4	80.5
United Kingdom	6.9	17.4	75.7	13.6	27.7	54.9
United States	66.1	4.7	29.2	68.9	16.8	14.3
OECD	38.3	9.7	52.0	44.7	19.5	35.7
OECD without US	27.7		60.7	35.8	20.5	43.6

Source: OECD Communications Outlook 2005, p. 219, table 7.3.

Digitalisation enables a more efficient use of networks, which opens up bandwidth to allow more channels of existing technical quality (analogue), as well as the possibility of higher definition pictures (HDTV) or on-demand services such as Near Video on Demand (NVOD) and Video On Demand (VOD). Competition between the existing and new entrants to this market is intense. General entertainment channels have to compete with new players offering specific niche- and thematic-channels. Each player is competing for the finite time the public has at its disposal.

Figure 1. Digital TV households as a percentage of TV households



Source: OECD Communications Outlook 2005, p. 203, Figure 7.2.

The Internet Protocol

Digitalisation allows for transmissions that not only offer a more efficient use of bandwidth, but also may offer the possibility of a return-channel for interactive services. The Internet Protocol takes this convergence even further. Audio, visuals (including video) and text can all be transmitted in the form of digital IP-packages. Infrastructures were originally designed for specific services. The telephone network, for example, was originally designed to carry audio. Some are suitable (or can be made suitable) for the transmission of IP packages. As networks become interchangeable, competition will be considerably enhanced. The Internet itself is the key example of a network of computers that can share all kinds of data, A/V be it audio, video, graphics, text or other forms of data.

This series of developments has been termed “horizontalization”, where existing networks merge into one horizontal layer that forms the converged basis for data transmission. Equal competition between different networks becomes possible. Horizontalization implies that content is uncoupled from its physical carrier, that devices are uncoupled from their networks and that the consumption of content is no longer limited to ‘its own’ device. This results in a market where many or all services can be received over every network and every device, a multiplatform environment. IP creates a market for content distribution in which content can be transmitted and received *anytime, any place, any how*.

AV-content requires a high-speed connection in order to transmit audio and video content with (at least) acceptable quality. Currently broadband access is growing rapidly within many of the OECD member countries.³ Possibilities for TV content distribution through the Internet are growing as a result. Several new forms of broadcasting services arise, especially when combined with the development of new multimedia devices. For example: a TV programme can be transmitted to the home using the Internet Protocol and recorded on the hard disk of a personal video recorder (PVR). Subsequently it can be watched

on a ‘normal’ TV set. The integration of ‘TV’ and Internet allow the viewer for example to purchase items in the programme he thinks attractive, through an e-commerce service. The deployment of new platforms may lead to a variety of new business models, some of which may differ significantly from traditional broadcast models.

Development of multimedia devices

In a multiplatform environment television content is received via different networks but also by using different devices. People watch television programmes on their TV set but also on their computer, cell phone or on their handheld players. 3G phones are becoming equipped with hard disk drives big enough to store television shows on them. Consumers in many countries are quickly adapting to the concept that it is possible to get AV content any way they want. If they miss a TV show, they’ll look it up on and download it from the Internet. The PVRs, music players and other digital storage devices even allow consumers to create their own personal “channels” or “programme-environments”. They decide themselves when and what they watch or listen to.

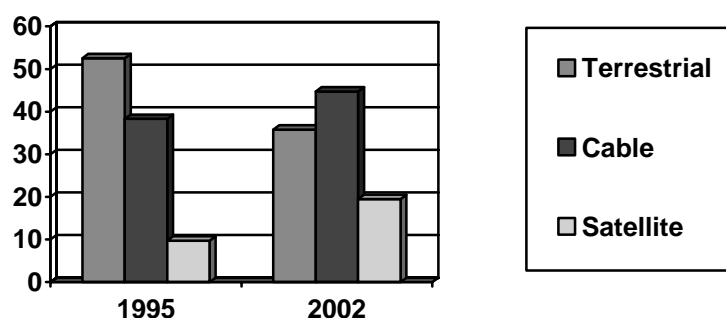
The three technological trends described above lead to increasing competition between infrastructures. There is also competition between content providers due to an abundance of content and the effects of global markets.

Competition between infrastructures

Traditionally, the analogue terrestrial “over-the-air” transmission network was the only infrastructure equipped for broadcasting. Nowadays, it faces competition from cable, satellite and DSL lines. Analogue terrestrial is even being superseded by the digitalisation of the terrestrial networks.

In almost all OECD countries, the number of ‘terrestrial only’ households dropped in the last decade (only in Belgium and Greece did the share of terrestrial usage grow). The overall percentage of television households not relying on cable or satellite dropped from 52% to 35.8% between 1995 and 2002, as Figure 2 shows (below). However, the share for each of the different distribution networks is different for each country, as Table 1 shows. In Norway and the Slovak Republic network usage is almost equally divided across the three networks, whereas in Belgium and Italy the share for cable and terrestrial is substantially higher than the other two networks.

Figure 2. Growing competition between broadcasting infrastructures



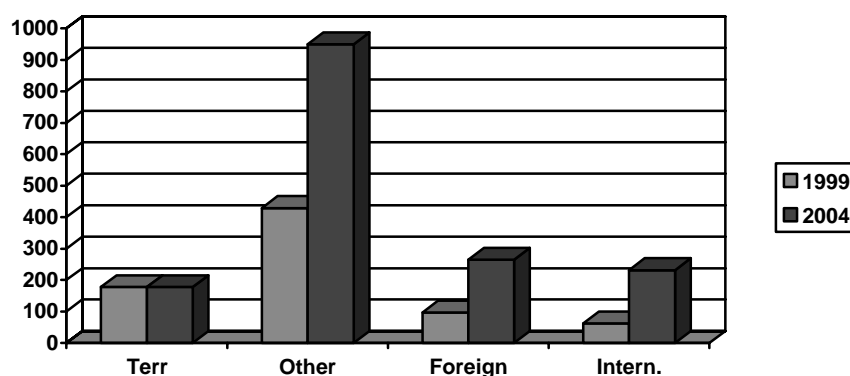
Source: OECD Communications Outlook 2005, fig 7.1 ‘Trends in media usage in the OECD areas’, p.202.

The graph shows that the percentage of households relying exclusively on analogue terrestrial has dropped from 52% to 35%, whereas the combined percentage of cable and satellite has risen from 47% to 63%. Cable clearly has surpassed analogue terrestrial. It is expected that the analogue terrestrial “switch-off” and the subsequent growth of digital terrestrial will further enhance competition between infrastructures. Increasing network capacity per network as well as alternative distribution networks is leading to an increase of competition between AV content providers.

Competition between content providers on infrastructures

Competition between content providers was already growing before digitalisation and the Internet Protocol became established. In the 1950s, broadcast markets started with one or two public channels, each transmitting for just a few hours a day. The number of channels was limited, partly because of the huge costs associated with constructing and maintaining the infrastructure. As the number of channels increased countries often used the argument that spectrum scarcity required that limitations be placed on market growth. Today, digitalisation and IP technology have reduced that distribution scarcity. Almost everybody has a TV set and many are able to receive a variety of channels. See Figure 3. The market for television broadcasting can be divided into general channels (as offered by most public service broadcasters – PSBs) and theme channels (such as music, movie, shopping or sports channels).

Figure 3. Growing competition between broadcasters in Europe: Number of broadcasters



Terr. = National Channels with terrestrial Licence.

Other = Other nationwide channels (cable and/or satellite and/or DTT).

Foreign = Dedicated Foreign Channels.

Intern. = Channels targeting foreign markets.

Source: *Statistical Yearbook Film, television, video and new media in Europe 99* (p.144 – 145) and 2005 of the European Audiovisual Observatory.

There is a huge variation per country in the growth of ‘other nationwide channels’ and ‘foreign channels targeting the country’. But the general trend is clear: the number of channels in these categories is rising. Also, the increase in ‘foreign’ and ‘international’ broadcasters is a clear sign of the internationalisation of the media landscape.

The rollout of “broadcast television over Internet Protocol”, or IPTV, is still in its infancy. The consequences of the transition to IP technology are still hard to predict exactly. But it will inevitably result in more points of distribution of audiovisual content and, possibly, even more channels.

Although it is not yet possible to give representative figures and graphs, two developments have already been identified. On the one hand, IPTV using multicast techniques will become a serious competitor for traditional broadcast technologies (such as DVB-T). On the other hand, the World Wide Web and P2P-file sharing technologies will enable the exchange of AV content amongst large audiences in other ways than the traditional broadcast model.

IP TV, Internet TV and webcasting

After digital TV, IP-TV is described as ‘the next step’: by transmitting AV-content via the Internet Protocol it has developed a universal standard and plenty of opportunities (at least in theory) to deliver interactive services and high definition quality. Multicast technologies enable the (broadcast-like) distribution of live AV content simultaneously to many individuals efficiently across the Internet. Multicast technology allows a content provider to send a single stream of AV onto the Internet, which is replicated into multiple streams at a point as close as possible to each receiving individual. This reduces the costs to both distributor and network operator of streaming AV content over the Internet. In addition, some operators create proprietary IP-based networks to distribute live AV services over a cable-TV or DSL network in a separate data channel from that used for Internet access. These types of service are only available to subscribers and have many characteristics of broadcasting: digital TV in IP format, transmitted over a separate part (from the Internet connection) of the TV-cable or DSL-line, to subscribers.

Some examples of IP-TV

The Dutch Public Service Broadcaster NOS provided the public with free and freely accessible streams of skating events during the *Olympic Winter Games 2006*. The streams attracted far more than the expected 5 000 viewers, because people from countries that did not provide streams, or charged for them, soon found out where the material could be watched for free. As a result servers quickly became overloaded. NOS considered the experiment a success and has decided to provide streams of popular sports events and distribute them with a peer-to-peer software called ‘Tribler’ with DRM-features to prevent illegal practices.

Several Internet sites have portals that allow Internet-users access to a huge amount of IP-TV channels or websites. For example <http://www.ip-tv.tv/>, a Thai-based company offering many types of content (games / clips / karaoke / movies, but also (pay-)IPTV on demand. They mainly address a Thai market, but can be received anywhere). Another example is www.see.tv, which lists hundreds of channels from countries throughout the world.

Apple Computers made headlines in October 2005 when it put up instalments of a popular US television series for sale on the US version of its online iTunes Music Store. The Wall Street Journal reported “(...) Apple may have helped open a Pandora’s Box for media business. (...) [This is] a potentially significant step in the dismantling of a decades-old system for distributing TV programming to viewers, a move that could have profound long-term consequences for broadcasters, cable systems and satellite companies of more users download shows instead of watching the old-fashioned way.” (Wingfield, Flint & Smith, October 2005). Half a year later, TV Broadcaster ABC (owned by Walt Disney Inc.) decided to make popular TV-shows like ‘Desperate Housewives’ and ‘Lost’ available for free via the world wide web. The TV-giant hopes to generate new sources of advertisement income and to find a way to make online TV-programme transmission profitable. The instalments from ABC-programs will be interrupted by spot advertisements that viewers cannot skip or avoid. Ten major advertisers have declared to be interested in the initiative. The instalments will be available on the world wide web the day after the traditional TV-transmission. (Source: *Telegraaf*, April 10 2006).

In Korea the mobile operator SK Telecom has upgraded its network for a form of broadcasting so customers can use their cellular phones for watching TV. It is called DMB. (SK Telecom, 2004). They also prepared for broadcasting content to cell phones via satellite. In March 2005 SK Telecom reported that with new 3.5G commercial High-Speed Downlink Packet Access (HSDPA) terminals, it is possible to download an entire movie with in a minute or two (SK Telecom industry news, 2005).

Globalisation

Globalisation of the electronic network environment comes as a direct consequence of digitalisation, convergence and the Internet. The first indicators of this development are the growth in dedicated foreign channels and channels targeting foreign markets in Figure 3.

The development of analogue satellite and transatlantic cable in the latter half of the 20th century made it possible to transport AV content around the globe. As costs began to fall in the 1980s, the viability of *global* broadcast networks became possible (TV5, BBC World, Deutsche Welle, Sky TV, CNN International, etc.) Digital networks later offered a similar or improved video quality but at a vastly reduced cost per channel. In the last five years, IP technology has given a further impulse to this trend by allowing for the distribution of AV content over the world wide web, around the globe at little or no cost.

Although there is nothing to prevent satellite signals straying over national borders, scrambling of content using analogue and digital encryption has ensured that certain channels can only be viewed in authorised regions or countries. Viewers of these “subscription channels” need to purchase a special viewing card. But the Internet has blurred the line between ‘national’ and ‘international’ content, because ‘the country of broadcast’ is no more than a server in a particular country which may be ‘fed’ with content from anywhere around the world. A proxy server on a distant island is enough to web cast any content to anywhere.

HOW CONVERGENCE AFFECTS POLICY

Arguments in the previous section concluded that digitalisation, IP and the development of multimedia devices result in more competition between infrastructures, content providers and the globalisation of the AV content market.

This means that the traditional difference between broadcasting (one-to-many) and telecommunication (one-to-one) are disappearing. The consumer is driving the change and not the content or infrastructure provider. Consumers approach the different technologies, networks or devices on offer in terms of usage: they watch video, listen to audio or browse text in new ways. The content may arrive through terrestrial, IP, satellite, UMTS or GSM. It may be viewed on an ‘ordinary’ TV set, computer monitor or cell phone: all of these options are increasingly perceived by the public as ‘watching television’ and are increasingly becoming substitutes for one another. Nevertheless consumers will still have different expectations and fears, and will exhibit different behaviour when watching content on line as opposed to broadcast TV. In addition, on the Internet many consumers want help in choosing (schedules, programming guides) and protection. Even then the concept of ‘a viewer passively watching programmes’ will gradually disappear. Telecommunication is or will be regarded as more than voice transportation, as the offering to the consumer becomes more ‘multimedia’, and audio and video programming becomes more interactive. Telecommunication is thus no longer restricted to one-to-one communication and broadcasting is no longer one-to-many. AV-distribution as well as telecommunication become ‘any-to-any’. Even when a consumer is not directly paying for content, the concept of ‘a viewer passively watching programmes’ disappears.

In order to create a policy that is effective, robust as well as flexible, the two policy domains of telecommunication and broadcast need to converge. This should be undertaken so that the ease with which consumers already label “video” as “television” is also reflected in the realm of policy making. However, while it is recognised that such convergence is difficult, often challenging vested interests, it is nevertheless possible to enact. Broadcast legislation and telecommunication law have very different roots and have developed along very different lines. The following section examines their different heritages.

Broadcasting policy

The invention of the printing press made a radical impact on society. It reduced the time and effort needed to spread information amongst the masses. Prior to the development of the Gutenberg press in 1455, it took years for someone to transcribe a copy of any work by hand. In the 20th century, the development of radio broadcasting brought new opportunities to those who wanted to spread ideas and messages throughout society, both at home and in neighbouring countries. Radio broadcasting turned out to be very influential, especially in the 1930s-40s. Both politicians and playwrights discovered this power of the medium. A relatively innocent example was the radio play ‘War of the Worlds’ by Orson Wells, which evoked an invasion of New Jersey by creatures from Mars. Panic resulted when it was broadcast in the United States. Despite several announcements that the broadcast was a work of fiction, audiences had already learned to ‘believe’ in anything that came out of their radio’s loudspeaker. But also radio could have positive influences on democracy: at that time it was the most important medium to spread and share alternative views from different sources.

Television broadcasting policy owes its origin to the 1950s as the first black-and-white transmissions began in several OECD countries. The power of pictures to influence was already known from newspapers and magazines. According to many experts at the time, *moving* pictures on TV would have a much greater social impact. The first theories in communication studies even proclaimed that the mass media was powerful enough to inject messages directly into the heads of viewers (the so-called “injection needle theory”). Later it was generally acknowledged that the effect of mass media was less direct and profound.

Nevertheless, broadcast media still have a great impact on society – they set social and political agendas and can make or break careers. In addition, governments consider mass media (and especially TV) as an integral part of civil society and crucial for maintaining democracy. Mass media (and therefore broadcasters) also have an important cultural function in capturing, propagating and preserving national heritage and language. Television sets in every household provide people with easy access to various forms of cultural expression.

According to the philosopher Habermas, most public broadcasting is based on the idea that the democratic state or state government is responsible for the quality of the information that needs to be publicly accessible. Underlying the concept of broadcasting as a public service is a discourse on the fundamental rights that each citizen has to information, knowledge, deliberation, representation and participation. Here the domain where broadcast performs its public function is the ‘political public sphere’, where public opinion and public debate are realised.⁴

The radio and television broadcast industry has developed and flourished, surrounded by an atmosphere of scarcity. The production of radio and (especially) TV programmes has always been a costly endeavour, well beyond the means of individuals. It requires high capital investment costs in studios and production equipment as well as high running costs to pay performers and personnel. The distribution infrastructure was also restricted. Terrestrial frequencies and network capacity have always been scarce.

Governments have based their policies on the assumption that broadcasters exert great influence on society and therefore are crucial for the well being of society and its citizens. This influence has also been a source of concern should it fall into the “wrong hands”. Governments have traditionally controlled the allocation of frequencies, regulating who had access to the electromagnetic spectrum. They have decided who could legally broadcast and issued limited licences, governing what could be broadcast. In some countries the only legal parties allowed access to the broadcast spectrum were public service broadcasters. Criteria concerning ‘freedom of speech’ and ‘plurality of voices’ were generally applied in deciding how to provide access to broadcast spectrum. Directly or indirectly this led to a policy of ‘control’, in the sense that audiences initially did not really choose broadcast content, it just arrived in their homes.

Nowadays, almost all countries have a dual system consisting of either public/state or commercial broadcasting. However, it is a long-standing tradition in all states that commercial broadcasters have to acquire a government licence, which comes with various obligations, fees and rules. The deployment of commercial TV led to a dual strategy for broadcasting policy: on the one hand broadcasting as a public service in the interests of the citizen, on the other hand broadcasting as a commodity, subject to market conditions.⁵

The vast majority of public broadcasts tend to have a national or regional focus on audiences as well as content, a logical result of the fact that they are financially supported by national/regional governments. There are a handful of global public TV channels, but these are usually heavily supported by the respective state with the general aim of promoting understanding of that country’s position on global affairs. There are also private/public partnerships and purely commercial networks operating in the global TV arena.

It can be concluded that there were three reasons for government to involve itself with broadcasting policy: presumed influence on the public, relevance for democracy and society and scarcity of resources for the distribution of broadcasting programmes.

There is a deep-rooted tradition of content policy and government involvement in broadcast markets. Because of convergence, this tradition and mind-set is now being challenged by a very different tradition; that of telecommunication policy.

Telecommunication policy

Telephony was invented to connect people. Alexander Graham Bell said in 1878: “I believe in the future wires will unite the head offices of telephone companies in different cities, and a man in one part of the country may communicate by word of mouth with another in a distant place” (AT&T website, 2005). The impact of telephony resulted from the connectivity of two people who were otherwise out of earshot from each other. This perceived impact of telephony on society differs from broadcasting.

As telecommunications infrastructure developed, it was regulated. Governments focussed on consumer and user protection. The prevention of eavesdropping (secrecy of messages), interconnection between networks and universal service have always been the main aims of telecommunication policies. Government intervention has never involved itself with the content of the message, but on the networks that distributed it. The consumer should be confident that his or her conversation was private and that the conversation could discuss anything without a third party listening in.

Following the break-up of state monopolies, OECD countries introduced competition in telecommunication markets by both privatising state monopolies and liberalising markets. In less than two decades, telecommunication operators learned to operate in a competitive and innovative market.

The Internet hype and ICT inventions led telecommunication operators into a new field of operations. At first they were purely telephony service suppliers. They had a rather simple business case: providing telephony services over their own network. Today, they can be network owners, ISPs and content suppliers at the same time.

The main objective remains that everybody should be able to use a telephone for a reasonable price without the message being interfered with. In all OECD countries this aim is pursued by means of a competitive telecommunication market. Consumer choice, competition and innovation are the key words. This tradition of non-interference with the message is very different from that contained in broadcasting policy.

Common objectives

In spite of huge differences in roots, tradition and focal points, the policy areas of telephony and broadcast share the same objectives. These are shown in Table 2.

Table 2. Government objectives for policies in the communication sector

<p><i>Economic objectives</i></p> <ul style="list-style-type: none"> • Promote and sustain competition and choice as a means of minimising price and maximising quality of communications services. • Encourage investment and innovation. • Maximise the contribution of the communication sector to economic growth and performance. • Efficient allocation of existing spectrum. <p><i>Social and cultural objectives</i></p> <ul style="list-style-type: none"> • Affordable access to a universal service specified in terms of telephony, broadcasting and Internet access. • Plurality of voices in the media. • Cultural diversity and national identity reflected in content. • Consumer protection and privacy.

Source: The implications of convergence for regulation of electronic communications (DSTI/ICCP/TISP(2003)5/FINAL), p.6.

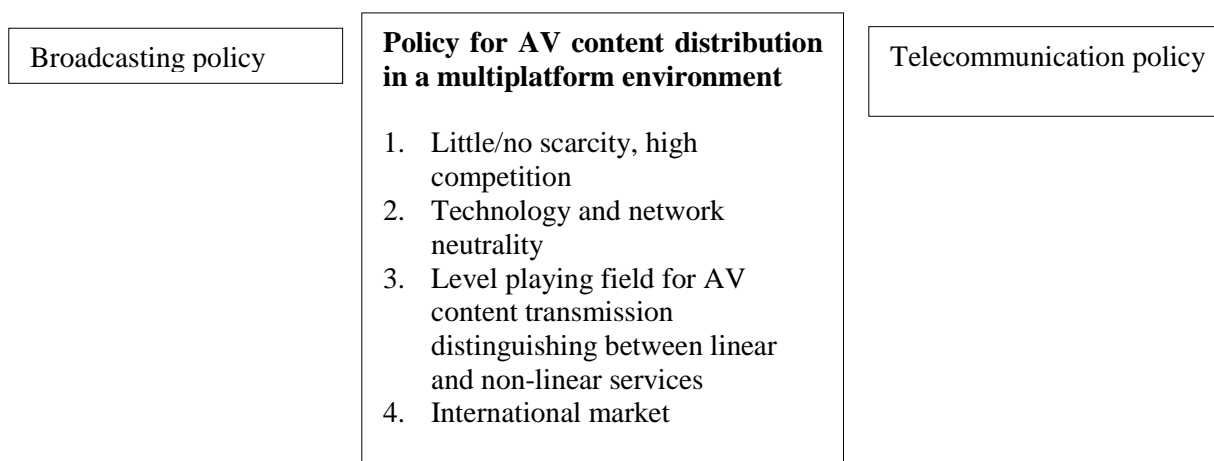
These common goals should provide the basis for a shared or converged policy area: policy for AV content transmission. While developing this policy, it is important to take into account the two different policy traditions and new technological developments.

<p>Telecommunication policy basics:</p> <ul style="list-style-type: none"> • Everybody can use a telephone. • No interference on what's transmitted. • Free and liberalised market with minimal government interference. 	<p>Broadcasting policy basics:</p> <ul style="list-style-type: none"> • Impact on the public. • High relevance for democracy and society. • Distribution via scarce resources. • Government regulates the broadcasting markets, especially by regulating on the content layer.
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Four considerations have to be taken into account when considering convergence and the shared policy goals. They are a starting point for the development of policy on AV content transmission in a multi-platform environment.

1. Contrary to traditional broadcasting policy which is based on distribution scarcity, the new policy should take into account the fast growing availability and accessibility of AV-content via various networks. This development will in due time be enhanced by the growth of broadband coverage. As a result, there is growing competition in many AV content (transmission) markets.
2. Technical advancement highlights the fact that policy instruments, such as regulation, are not always technology or network neutral. It is necessary to evaluate the relevance of policy for one kind of network or technology, in light of comparable policies for substitutable networks or technologies.

3. The market has changed and expanded as a consequence of technological developments. Convergence has created substitute networks which are interchangeable and so offer new distribution channels. As a result, the definitions of both the telecommunication and broadcasting markets have changed. This raises questions regarding existing market regulation and asks for opening up the playing field for all AV content transmission.
4. Convergence not only leads to a larger and more competitive market, but also a more international market. National regulation may not always be compatible with in an international electronic communication market.



The key question is which instruments can be used in this new policy area? In this respect, OECD has stated earlier: “New developments do not imply that existing regulations need to extend their coverage over other platforms or services”.⁶ Existing instruments may be appropriate, though. The different OECD member countries might learn from each other here. But it is important that instruments are used that do not hinder the positive developments and aspects of convergence whilst also being effective, robust and flexible. In order to take convergence into account in a workable and future-proof manner, the European Commission’s proposal for revision of the “Television without Frontiers” directive sets, the principle that AV policy should distinguish between linear audiovisual services or “broadcasting” including IPTV, streaming or web casting on one hand, and non-linear services, such as “video-on-demand” services, on the other. Such a distinction comprises a two-tier regulatory framework: common minimum rules for all audiovisual services (linear and non-linear), for instance regarding protection, of the civil society. The European Parliament has not yet expressed its view or taken a decision on this topic.⁷

To answer these questions, current instruments used in telecommunication and broadcasting policy have been examined where they relate to the distribution of AV content. The instruments in broadcasting and telecommunication policy concerning AV content transmission should be reviewed and, if necessary, revised.

CURRENT INSTRUMENTS FOR TELECOMMUNICATION AND BROADCASTING POLICY

Every country has its own mix of instruments to reach common objectives in communication policy. Historical developments, cultural differences and divergent market developments account for these different mixes. This section gives an overview of the instruments that 13 pre-selected OECD member countries have chosen to realise as their communication policy objectives as summarised in Section 3, Table 2, p. 13. This is intended to provide a basis for discussion on the applicability, and the effectiveness of these instruments and the need to adapt them.

The regulation overview is based on a more extensive study⁸ that has been added as an Annex to this paper. The tables presented below have been assembled on the basis of the data provided by this study, with the exception of the first table on regulatory bodies, which encompasses all OECD countries.

This section will focus on:

- Must-carry and must-offer.
- Advertising quota and separation of programmes and advertising.
- National and original production quota and language quota.
- Methods to protect public decency rules.

A few qualifications need to be noted:

- The focus is on the policies (regulation as well as self regulation) that address general broadcast channels and not the thematic or niche channels. Theme pay TV and specific channels linked to music or sports have therefore been excluded.
- Due to time and funding limitations it has not been possible to cover all 30 member countries. Instead, an overview has been compiled covering half of the member countries (although OECD countries not included in the Annex are encouraged to provide information to help complete information for their country in the Annex).
- The focus of this review lies in policy specifically aimed at broadcasting. This review does not examine policy covering the press or policies that affect the media in general (such as general rules that prohibit certain forms of pornography, guarantee freedom of speech and public safety).

Table 3. Regulatory bodies in broadcasting and telecommunications

Country	Telecommunications	Broadcasting carriage regulation	Broadcasting spectrum allocation	Content regulation
Australia	ACMA	ACMA	ACMA	ACMA
Austria	RTR-GmbH	Austrian Communications Authority (KommAustria)	KommAustria	KommAustria
Belgium	BIPT	<i>Vlaams Commissariaat voor de Media (VCM); Conseil supérieur de l'audiovisuel (CSA);</i> Government of the German Community	BIPT*1; VCM; CSA; Government of the German Community	VCM; CSA; Government of the German Community
Canada	CRTC	CRTC	Industry Canada	CRTC
Czech Republic	CTO	CTO	CTO in co-operation with the Council for Radio and Television Broadcasting (issues regarding the use of the frequency spectrum reserved for radio services must be discussed with the Council for Radio and Television Broadcasting)	The Council for Radio and Television Broadcasting
Denmark	National IT and Telecom Agency	Ministry of Culture; Radio and Television Board; National IT and Telecom Agency	National IT and Telecom Agency	Ministry of Culture; Radio and Television Board
Finland	FICORA	Ministry of Transport and Communications; FICORA	FICORA	Ministry of Transport and Communications; FICORA
France	ARCEP	<i>Conseil supérieur de l'audiovisuel (CSA)</i>	CSA	CSA
Germany	RegTP	RegTP, Association of Regulatory Authorities for Broadcasting (ALM), Commission on Concentration in the Media (KEK)	RegTP	ALM
Greece	EETT	Ministry of Press and Mass Media; National Radio and Television Council (ESR)	EETT	ESR
Hungary	HIF	National Radio and Television Commission; HIF	HIF	National Radio and Television Commission
Iceland	PTA	PTA	PTA	PTA
Ireland	ComReg	ComReg, Broadcasting Commission of Ireland (BCI)	ComReg	BCI
Italy	AGCOM	AGCOM	Ministry of Communications	AGCOM
Japan	MIC; Telecommunications Business Dispute Settlement Commission	MIC	MIC	MIC

**Table 3. Regulatory bodies in broadcasting and telecommunications
(Cont'd)**

Country	Telecommunications	Broadcasting carriage regulation	Broadcasting spectrum allocation	Content regulation
Korea	MIC; KCC	MIC, Korean Broadcasting Commission (KBC), Ministry of Culture and Tourism (MCT)	MIC	KBC, MCT
Luxembourg	ILR	<i>Ministère d'État, Le Service des Médias et des Communications; ILR</i>	ILR	<i>Ministère d'État, Le Service des Médias et des Communications</i>
Mexico	COFETEL	<i>SCT (Secretaría de Comunicaciones y Transportes); Secretaría de Educación Pública (SEP)</i>	SCT	<i>SEP; Radio, Televisión y Cinematografía (RTC) de la Secretaría de Gobernación</i>
Netherlands	OPTA; Radio-communications Agency	Dutch Media Authority	Radio-communications Agency	Dutch Media Authority
New Zealand	Commerce Commission	Ministry of Economic Development	Ministry of Economic Development	NZ On Air; Broadcasting Standards Authority (BSA)
Norway	NPT	Ministry of Culture and Church Affairs; Norwegian Media Authority; NPT	NPT	Norwegian Media Authority
Poland	URTiP	National Broadcasting Council (KRRiT)	URTiP; KRRiT	KRRiT
Portugal	ANACOM	<i>ANACOM; Entidade Reguladora para a Comunicação Social (ERC)</i>	ANACOM	<i>Entidade Reguladora para a Comunicação Social (ERC); Instituto da Comunicação Social (ICS)</i>
Slovak Republic	Telecommunications Office of the Slovak Republic	Council for Broadcasting and Retransmission	Telecommunications Office of the Slovak Republic; Council for Broadcasting and Retransmission	Council for Broadcasting and Retransmission
Spain	CMT; State Radio-communications Agency	CMT	Ministry of Industry, Tourism and Trade; State Radio-communications Agency	Ministry of Industry, Tourism and Trade
Sweden	PTS	Radio and Television Authority	PTS	Broadcasting Commission
Switzerland	OFCOM; ComCom	Federal Council; Federal Department of Environment, Transport, Energy and Communications; OFCOM	OFCOM	Federal Council; Federal Department of Environment, Transport, Energy and Communications ; OFCOM; <i>L'Autorité indépendante d'examen des plaintes en matière de radio-télévision (AIEP)</i>
Turkey	Tele-communications Authority	Radio and Television Supreme Council (RTUK)	Tele-communications Authority; RTUK	RTUK
United Kingdom	Ofcom	Department for Culture, Media and Sport; Ofcom	Ofcom	Ofcom
United States	FCC; Public Utilities Commission	FCC; Local government for cable television franchises	FCC	FCC; Federal Trade Commission (FTC); Department of Justice (DoJ)

Source: Table 13 from: *Telecommunication regulatory institutional structures and responsibilities*, OECD paper, DSTI/ICCP/TISP (2005)6/FINAL.

In OECD countries some more or less ‘merged’ or ‘integrated’ regulators can be found for network regulation, spectrum allocation and content regulation (including advertising and audio-visual policy). Also a limited number of self-regulating bodies are active. The German PSBs can be seen as ‘primarily self-regulated’, whereas in Canada the Canadian Association of Broadcasters and the Canadian Broadcast Standards Council are active. In the Netherlands, the Netherlands Institute for the Classification of Audiovisual Media (NICAM) has been established for self-regulation of content. The self-regulatory bodies that take action in fields like advertising, video on demand, etc. are not considered here.

There seems to be somewhat of a trend toward mergers between two or more regulatory bodies (the opposite development has not taken place, as far as is known). For example, in recent years the general (‘converged’) communications regulators Ofcom in the United Kingdom and ACMA in Australia have been established, while Norway recently merged its two authorities for media into a single body, the Norwegian Media Authority. Belgium/Flanders has announced that the Flemish media authority, the Council of Disputes for Radio and Television and the Listening and Viewing Council will soon be merged into the Flemish Regulator for the Media, *inter alia* ‘to accommodate emerging media and the phenomenon of media convergence’.⁹

However, this trend towards ‘merging’ of the regulatory oversight of communication with broadcasting does not automatically imply that policy or regulatory activities as such are ‘converged’. That depends *inter alia* on laws and regulatory acts and the definition and distribution of regulating activities within the organisations. Most OECD countries have separate regulators for broadcasting and for telecommunications. The nine exceptions are Australia, Canada, Finland, Iceland, Italy, Japan, Luxembourg, United Kingdom, and the United States. In 23 OECD member countries the regulatory bodies for telecommunications are also involved with broadcast spectrum allocation (sometimes together with other parties). In 15 countries regulatory bodies for spectrum allocation are also charged with content regulation, while in only 8 countries broadcasting carriage regulation has been ‘merged’ with spectrum regulation. Regulating tasks for broadcasting carriage regulation are divided over more than one body in 13 countries, for spectrum allocation in 6 countries and in 7 countries for content regulation.

In addition to this most OECD countries have some form of public service broadcasting, either combined in one organisation – a Public Service Broadcaster (PSB) – or in the form of assignments or another form of public service broadcasting. There are large variations in the way public service TV broadcasting is organised, regulated and funded. For example, in Germany, there is one national PSB channel (ZDF) and several regional channels working together to form the ARD. The United Kingdom has a PSB, (BBC) which has a broad and national assignment to ‘provide sound and television programmes of information, education and entertainment for general reception’ in the United Kingdom. Besides the BBC, the terrestrial channels of ITV-1, Channel 4 and Channel 5 operate with licences that require degrees of public service programming. The government of the United States founded a ‘Corporation for Public Broadcasting’ in 1967. This body allocates federal funding to more than 1 000 local public radio and TV stations, dependent on the number of members who make voluntary contributions.

Table 4. Content distribution rules (N/a = absent)

Country	Must-Carry	Must-Offer/ may carry	Must-List
Australia	N/a	N/a	- For datacasting licensee - Listing must be equivalent for all public or commercial broadcasting services - If requested by broadcaster
Belgium Flanders	- For cable operators - All Flemish and Dutch PSB-programmes	-For DVB-T - PSBs should make their programmes available for platform operators	Electronic communication network operators must make EPG facilities available for selected digital services
Canada	- For cable licensees - Extensive conditions, dependent on number of subscribers	Extensive may-carry and may-not-carry rules	N/a
France	- For certain cable and satellite operators - Cable operators must also carry local channels and local cable channels	All national TV and radio stations must offer programmes to <i>Réseau France outre-mer</i> and v.v.	N/a
Germany	- For cable operators and DVB-T - Extensive regulation at level of länder. - More detailed for analogue than for digital cable operators ¹⁰	N/A	Public service channels should be given appropriate prominence
Italy	N/a	N/a	N/a
Japan	In some cases for cable operators	Not applicable	Not applicable
Netherlands	- For cable operators - At least 15 channels, including national + regional + municipal public broadcasters + Belgian PSBs	N/a	N/a
Norway	- Cable owners - Must transmit Norwegian Broadcasting Corporation/ TV2 / terrestrial public TV services	N/a	N/a
Portugal	Not yet established, but rules are developed for digital terrestrial TV	For commercial TV broadcasters to the public broadcaster for specific content	N/a
Switzerland	Cable operators: Swiss PSBs + terrestrial and public channels designated to the regional and linguistic area of the cable operator	N/a	If a cable operator provides EPG: due prominence for Swiss PSB + first 20 positions to be assigned to terrestrial and public channels designated to the regional and linguistic area of the broadcaster.
United Kingdom	Terrestrial transmission networks ¹¹ : BBC, Channel 3-5 if digital + public teletext service	Digital satellite: BBC on BSkyB	- Appropriate prominence for PSBs - Specific rules for 'disabled people' - BSkyB must allow any TV service if requested
United States	- Cable operators must set aside a specific part of their channel capacity - For local commercial and at least one non-commercial educational TV station - Further elaborate must carry and may carry provisions		A must-carry station has a right to a channel position.

Must carry

Most OECD countries covered in the Annex apply some form of “must carry” regulation. Must carry channels often include local, regional and public service channels. Must carry as a general rule applies to infrastructures that attract a significant amount or percentage of viewers. As Table 2 shows, terrestrial networks have lost much of their former dominance. At present in most countries ‘must carry’ applies to cable operators, in some countries it applies to terrestrial and/or satellite operators. Five countries covered by the Annex have “must list” rules for Electronic Programming Guides imposed on ‘data licensees’ (Australia), ‘electronic communication network operators’ (Belgium) or ‘cable operators’, operating an EPG (Switzerland). The ‘must list’ rules can be limited to PSB channels, to must carry channels or to another selection of channels. Only three countries (Belgium, France and the United Kingdom) have “must offer” obligations imposed on their PSBs.

Table 5. Advertising quotas and separation of content types¹²

Country	Quota	Timeframes	Rules for separation	Targeting
Australia	Limitation in minutes per hour	- Specific periods for children - Time frames for amount of commercials	N/A	N/A
Belgium Flanders	EU quota: limitation of minutes per clock hour	N/A	Commercials at commercial stations allowed in specific categories	N/A
Canada	Limitation in minutes per hour	N/A	Only for PSB news programmes	Specific restrictions during children's programmes
France	EU quota and beyond : limitation in minutes per sliding hour (reduced for PSB). Quota depends on audience reach and character of TV station.	N/A	- No advertisements outside advertisement blocks - Rules aimed at respecting the integrity of specific categories - Concerning PSB, advertisement may not interrupt specific categories	Specific restrictions during children's programmes and films
Germany	EU quota plus limitation on revenue percentage for PSB	For PSB	EU provision	Specific restrictions during children's programmes
Italy	EU quota: limitation in minutes per clock hour	N/A	Advertisement may not interrupt specific categories	
Japan	- PSB no advertisement - By co-regulatory standards quota for commercial broadcasters	N/A	Advertisement should be identifiable	Specific restrictions for programmes intended for schools
Netherlands	EU quota: limitation of minutes per clock hour	N/A	PSB specific rules	Specific restrictions for children's and religious programmes

**Table 5. Advertising quotas and separation of content types
(Cont'd)**

Country	Quota	Timeframes	Rules for separation	Targeting
Norway	- PSB no advertisement - EU quota applies	Rules for religious holidays	- No advertisements outside advertisement blocks - Advertisement rules with specific categories	N/A
Portugal	EU quota: limitations in minutes per clock hour	For alcoholic beverages	EU provision - No damage of integrity - Advertisement rules with specific categories	N/A
Switzerland	Limitation of minutes per clock hour and transmission time	N/A	- Specific rules for specific programmes such as length of the programme - Advertisement should be identifiable	N/A
United Kingdom	EU quota: limitation in minutes per clock hour	Time frames for amount of commercials	- Specific rules for news programmes - Rules for persons in advertisement - Advertisement rules with specific categories	N/A
United States of America	Only for children's programmes	Difference between weekends and weekdays for children's programmes	- Specific rules for children's programmes - Specific rules for non commercial educational stations	N/A

This table shows the wide range of instruments and regulations that are used to limit advertising time per clock hour, transmission time or per time frame. Most countries have some kind of regulation to separate advertising from non-advertising content, to protect the integrity of (e.g. religious or news) programmes and to ensure that advertisements are clearly identifiable.

Table 6. National and original production quota

Country	National quota	Language quota	Specific category quota	EU product quota	Timeframes
Australia	Quota per day and annual amount for specific categories	N/A	See national quota	N/A	Yes
Belgium Flanders	For the PSB quota in specific time frame	Combined with EU production	Quota for independent productions	EU quotas apply	Yes
Canada	Quota per annum	Maximum and minimum quota for English, French and third languages	Only radio	N/A	Yes
France	Quota during prime time	Yes, in most cases compulsory	Quota for independent productions	EU quotas apply	Yes
Germany	N/A	N/A	Specific qualified programmes for EU quota	Majority of programmes should be EU product	No
Italy	For satellite broadcasters	Quota for specific language groups	- Quota for independent productions - Quota for religious and political and cultural minorities	EU quotas apply	No
Japan	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Netherlands	N/A	Quota for Dutch and Frisian language	Independent production	EU quotas apply	Yes
Norway	N/A	Quota for Norwegian and Sami	Quota for news cast	EU quotas apply	No
Portugal	Quota per transmission time	Quota Portuguese language per transmission time	- Services for Azores and Madeira - Independent production and AV experimentation	EU quotas apply	Yes
Switzerland	Favour for Swiss productions	Provision of German, French, Italian and Romansch	Swiss cinema productions	Effort to promote	No
United Kingdom	N/A	Quota for Welsh and Gaelic	Independent EU productions	EU quotas apply	No
United States of America	N/A	Specific rules for dual language broadcasting in Puerto Rico	See language quota	N/A	No

With the exception of Japan and the United States, all the countries covered by this paper have quotas for national and/or European productions. Language quotas (mostly for minority languages) and specific category quotas (such as for religious or cultural programmes, or independent productions) are common, but not all countries have them. Specific quotas for AV-experimentation (Portugal) or cinema productions (Switzerland) are rare.

Half of the countries/regions (Australia, Flanders, Canada, France, Netherlands and Portugal) combine quota with specific timeframes, *e.g.* a specific amount of certain productions during prime time or before midnight.

Table 7. Methods to protect public decency

Country	Prohibition	Timeframes	Hardware features	Other
Australia	Several prohibitions	To protect children	N/A	- Specific advertisement rules for children - Self regulating practice
Belgium Flanders	EU provision, several prohibitions	Yes	N/A	Audio warning signals
Canada	Several prohibitions	See other	V chip and other hardware features on set top boxes to block out inappropriate programmes	- Voluntary codes with timeframes - Special rules in specific programs - Written and oral viewer warnings
France	EU provision, Several prohibitions	Yes	N/A	Viewer warnings
Germany	EU provision, Several prohibitions	Yes (to protect minors)	N/A	Self regulation
Italy	EU provision, Several prohibitions	Yes	Special norms for conditional access broadcasts: the adoption of specific and selective control systems	No young children in advertisements
Japan	N/A	N/A	N/A	Self regulatory standards
Netherlands	EU provision, Several prohibitions	Yes	N/A	- Viewing guide - Self regulations - Visual warnings
Norway	EU provision, Several prohibitions	Yes	N/A	Verbal acoustic warnings or visual symbols
Portugal	EU regulation is observed, several prohibitions	Yes	N/A	- Self regulation - Visual warnings
Switzerland	Several prohibitions	N/A	N/A	N/A
United Kingdom	EU provision, Several prohibitions	Yes if not pin protected	N/A	- Rating - Several detailed provisions
United States	Several prohibitions (sometimes executed by criminal law enforcement authorities)	Yes	- V-chip technology also for Internet connected to a TV tuner - Cable operators are required to make lock boxes available on request	Voluntary rating system

Aside from general laws on indecency, incitement to hatred etc., almost all countries have specific provisions to protect public decency on TV. They include prohibitions to time frames (watersheds), hardware features and self regulation. Many of the self-regulation initiatives are not covered by the data shown in the Annex.

Technological developments enable governments to co-operate with industries to develop hard- and/or software filters to protect public decency or to enable parents to 'manage' public decency in their homes. Two countries apply V-chip technology, but also PIN-protected channels, and electronic warning systems for 'problematic' content on EPGs are available, mostly to enable some form of self regulation or user empowerment.

POLICY CONSIDERATIONS

Technological and economic changes, described in previous sections, contribute to common policy objectives within OECD member countries. As a result of convergence, competition between infrastructures has grown and entry barriers for broadcasters and content producers are substantially lower. The variety of suppliers of broadcast content has also increased.

The advent of alternatives to over-the-air terrestrial broadcast transmission has encouraged even more competition in the last few years. AV-content can also be transmitted to the home through IP technology or received on mobile devices. There is even more competition and choice to come. Horizontalisation in the communication market facilitates market entry and makes it possible for many new players to access each layer and compete with existing market players on that level.

All these developments illustrate innovation in networks (*e.g.* digitalisation), transmission (*e.g.* IP), devices (*e.g.* mobile devices) and content (*e.g.* multimedia productions). Every form of electronic communications has recently seen major innovations. New forms of video, web casting and multiplatform broadcasting continue to emerge. Competition, more consumer choice and innovation will evidently lead to economic growth. Convergence and globalisation go together and enhance the possibilities for a single world market.

Checks and balances

In some cases social cultural objectives have become easier to meet. The reduction of scarcity is important here. By reducing spectrum scarcity, by stimulating digitalisation and by allowing for more platforms, room has been made for new initiatives. It has become easier to make a wider range of content available to more audiences. It could be said that convergence contributes to plurality and diversity, as it lowers market entry barriers. As Ariño said: “First privatisation and now digitalisation have multiplied the number of channels available, and therefore, the number of potential voices. As services are personalised, the power of influence and the ability to control mass viewing habits would appear to be reduced. On this basis, some argue that strict regulations governing the protection of pluralism are no longer necessary” (Ariño, 2004, p.99). IPTV may well contribute further to this diversity.

On the other hand, having more can also mean just more of the same. It could mean that Internet TV provides more choice of channels but market forces alone do not achieve the desired plurality of voices in the media. As Ariño puts it: “The quantity of channels and interactivity available in the delivery networks does not itself guarantee free consumer choice” (Ibid). Plurality of players does not per se lead to diversity of content. In some circumstances increased competition can lead to a reduction of the range of goods.

The solution here is not to reduce competition in one way or another, but to develop or maintain complementary policy to create the circumstances in which competition does contribute to the different kinds of plurality: plurality of ownership, of content diversity and of ‘voices’. These all may require different if overlapping policies, from market regulation to content quota. Market definitions and a thorough understanding of market developments are crucial here. Convergence leads to an increased supply of broadcast services. Viewers will have a greater possibility to choose between platforms and/or different operators on the same platform. But many barriers to competition still exist. Full competition

between providers of transmission services is not necessarily enough to provide full competition between content providers.

Globalisation

Convergence leads to a larger international market. Internationalisation enables the development of a larger, more open playing field. European Union governments for example, should monitor this development and try to harmonise rules where possible. If there is a need, they should consider taking away barriers for expanding the level playing field. Second, internationalisation can reduce the effectiveness of national regulation. Policy makers have to take into account that the importation of, or crossborder access to, new services is far easier and should consider adjusting regulation to this.

Innovation

When choosing instruments in electronic communication policy, special attention should be paid to prevent hindering either social-cultural or economic objectives. For example, if very restrictive rules for cultural diversity are applied to existing network providers, they may well hinder the emergence of new network providers. The opposite can also apply. As UNESCO has stated: "It is (...) important (...) that the development of new technologies should not weaken cultural diversity. In this regard, UNESCO insists on the need to promote pluralism of media, linguistic diversity and the presence of locally made content in cyberspace" (UNESCO, 2004, p. 19).

Uncertainty concerning future regulation may dampen market innovation. It is important that regulators communicate clear paths before changing existing regulation. It is all about striking the right balance between "the 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 safeguards" (European Commission, 1999).

This confirms the need to adjust the existing playing fields into a new and level playing field where new market players can enter and have enough certainty regarding regulation that they are willing to invest in new services. Regulations, old or new, should not place unnecessary burdens on new market entrants. For instance, it is becoming ever easier to start up as a 'broadcaster', but licences (and their cost) could be a barrier for new broadcasters.

Timing is an important aspect of the effectiveness of the application of new instruments or adaptations of regulation. The development of a new platform should be adequately anticipated (when it is there, it is too late to create an adequate playing field). On the other hand, an untimely introduction of regulatory changes could have adverse effects on the market and the willingness to invest.

Impact and consumer control

Technological developments and especially the shift from analogue to digital to Internet Protocol has a major (though not totally clear) impact on one of the underlying assumptions of much broadcasting policy: the impact criterion. It can be argued that – because of new techniques such as multicast and web cast – the impact of AV-content distribution is different from that of a 'traditional' analogue broadcast. The same applies for the multitude of channels viewers can choose from and the shift from TV hours to more interactive new media. This does not mean, however, that the influence on society of television broadcasting today is necessarily negligible compared with ten years ago. Besides, interactivity and 'on demand' arrangements provide a countervailing power to impact, because they put the consumer more and more in control of what he wants to see and when he wants it. As a consequence in many instances the regulatory instruments can be lighter in proportion as consumer control is higher and impact is lower.

Policy instruments in a multiplatform environment

All in all, convergence creates new issues and challenges to existing policy instruments and existing policy issues of broadcasting. Section 3 showed that the two policy traditions have to adjust in order to cope with the changing markets. Section 4 discussed different traditional instruments that come from broadcasting policy which are confronted with a multiplatform environment where these instruments might need to be considered to maintain achieving common policy objectives.

Market regulators

Convergence has a major impact on market structures. The multiplatform environment increasingly creates a single market for the distribution of AV content. Also, market structures change as a result of vertical integration, cross media ownership and new market entrants from non-media markets. Another important market development, due to technological developments (such as conditional access), is the possibility for companies to block or restrict access to consumers, monitor their use of content and possibly create a lock-in for consumers.

Market regulators and consumer authorities should take account of these possible sudden changes in market structure, safeguarding the consumer rights and maintaining a healthy competitive market. This might mean stricter regulation to protect consumers. Nevertheless a dynamic market needs regulators and policy that is flexible. It needs to be open to new forms of enforcement and new instruments of self-regulation.

When networks become more and more substitutes, it is important to consider the rules for one network in light of the rules of other substitutable networks. As an implication market regulation and its regulators should adapt to the new multiplatform environment. It is important to ensure that new regulation does not hinder further development of the markets and restrict consumer possibilities. "One of the lessons that can be learned from (...) history is that in the beginning of each period there are sound technical and economic arguments for considering the new platforms as complementary to traditional terrestrial broadcasting, (...). Another lesson is that these platforms had the potential to go further and complete and replace terrestrial broadcasting but that the political and regulatory barriers have slowed this process".¹³

In Section 4, table 1 gives an overview of the various regulators. This shows that in some countries merged regulators have recently been formed whereas in other countries there still exists a wide gamut of separate regulators for the different aspects of the telecommunication and broadcasting markets. In a multiplatform environment, a merged regulator structured in a layered way is an effective way to guide the electronic communication markets through the current transition phase. The 'layeredness' would mean a division in 'horizontal layers', like connections (infrastructure capacity), network (Internet protocol), applications / services and content. A merged regulator also ensures greater responsiveness to the developments in electronic communication markets by enabling a wider vision of changes taking place and having less vested interest in maintaining existing structures, instruments and procedures. A merged regulator also implies a merged, or converged, policy framework which as well ensures that market and technological developments are given more effective consideration.

For the implementation of spectrum allocation, the concept of layeredness might apply as follows. In many countries spectrum allocation is undertaken by different agencies. Either one agency is charged with covering the whole spectrum or two regulators divide the task, issuing two licences: a licence to operate a carriage network (including spectrum) and a licence to operate broadcasting content service (content regulator). "Under this scenario it should be possible to achieve the benefits of having one body responsible for the planning and allocation of all spectrum, while accommodating special arrangements for the allocation of broadcasting licenses if this is desired".¹⁴

Another point could be made, that some regulatory challenges caused by convergence can be solved by switching to 'lighter' regulatory arrangements, e.g. from regulatory to self regulatory supervision.

In general, the convergence of the two traditions of telecommunications and broadcasting policy as described in Section 3, will not be easy. But it is crucial that both the broadcast and telecommunication expertise of the two regulators is used seamlessly to develop adequate cross-media policies for a multi-platform environment.

Must carry

Most OECD countries¹⁵ enforce some form of "must-carry" regulation. These rules were devised during a period of scarcity of distribution networks and of networks. In most cases these rules are imposed on networks carrying TV networks which the general public regards as "primary networks".

As a result of technological and market developments, such as digitalisation, distribution scarcity is progressively giving way to abundance. Also, competition between infrastructures and platforms makes consumers less dependent on a single infrastructure for a full package of television channels. As a result of increased competition, the chances are that in the future existing broadcast infrastructures will no longer attract the same 'significant' numbers of viewers. If so, then there is less reason – and it will become less fair – to oblige one specific infrastructure to carry a large package of must carry channels.¹⁶

Considering the burden on new platforms has to be limited, must carry should be limited to a reasonable number of channels (especially public channels).

Possible new instruments that fit better in a multiplatform environment are "must offer" or "may carry" rules. These forms of regulation oblige certain (public) channels to offer their content to platforms if they ask for it. Governments have to assure that competition and the level playing field is not distorted too much, for instance by keeping the amount of must offer channels small and by regulating the criteria under which the channels are compensated for the must offer obligation.

If governments want to make sure that certain (public interest) content is available to the general public, the question is also whether a must carry ruling is still the most efficient instrument to meet this requirement. Technological developments have created new access systems and gateways such as Conditional Access Systems (CAS), Electronic Programme Guides (EPG) and Application Programming Interfaces (API). Especially "must list" might be a better instrument to ensure the availability and traceability of specific content in the future. Some countries like Australia and Belgium have already imposed such rules.

The "must list" – instrument can also be used to meet objectives as plurality of voices, by ensuring access to a wide range of programming. In the must list obligations special criteria for such content could be added. This means that also the position of listings in electronic programme guides is important, as the risk exists that public interest content can be buried at the bottom of listings.

Advertising quota and time frames

Most OECD member countries have defined quota regulation for the level of advertisements allowed during a broadcast and/or during a 24 hour period. This is an effective way to protect consumers from an advertisement overload during and between programmes. However, this is only effective when broadcasting is used in its traditional linear, point-to-multipoint way.

Transmission time and certainly watershed regulations are very difficult to enforce in a multiplatform environment that is increasingly dominated by new technologies and services like PVRs, media centres and video-on-demand. From some experts' point of view, these developments reduce the effectiveness of time-period related quota regulations. This could be an argument to adjust or reduce less effective and unenforceable rules.

Technological developments reduce the effectiveness of spot advertising for advertisers. The developments can even undermine the return of investment on the advertising dollar. New devices give consumers far more control. For example, several brands of Personal Video Recorder (PVR) offer an option allowing the user to skip advertisements easily on automatically recorded content.

Governments have to consider the fact that broadcasting markets are (by definition) dual markets where the product is sold to the consumer and the attention of the consumer is resold to the advertiser. Advertisements are almost the sole source of income for commercial broadcasters and in many cases an important source of income for public service broadcasters.

But technological developments also enable new forms of commercial communication, such as virtual inserts, product placements, interactive on line selling and banners during certain programmes. In order to maintain a healthy basis for the business case in these dual markets, liberalisation of some advertisement rules might be considered. Therefore, the question arises if specific rules for advertisements, such as a ban for product placement or split screen, do not prevent future business cases for innovative services.

Content quota

With the exception of the United States, all the countries covered in the Annex have national or European production quotas for their broadcasters. Some of them combine this with requirements for specific time frames. These quota and time frames have been devised when people who watched TV had a limited choice of channels, and where many programmes were broadcast at a fixed date and time. Once introduced into the market, devices such as PVRs and services as VOD and other on-demand or self-controlled services significantly change TV viewing habits.

These new viewing habits do not mean that stimulating or ensuring the availability of specific types of content should be discontinued. On the contrary, in a highly competitive and international market it is important that certain types of content are easily available or findable. If traditional instruments such as quotas may not be adapted to new platforms, policy makers could consider new instruments. During the consultation for the EC Green Paper on convergence: *Regulatory requirements with regard to the production of European audiovisual content*, many contributors stated that "Content requirements based on broadcast time were rapidly becoming obsolete and that consideration should be given to mechanisms based on investment requirements".¹⁷ Technological solutions such as offering non-linear services for specific types of content or production subsidies could be other solutions.

Public decency

Almost all countries have specific provisions in order to safeguard public decency on TV. As timeframes are no longer adequate in meeting the goal of child protection, additional ways have to be found.

Technological developments enable governments to create new means to protect public decency. For instance, they could co-operate with industries to develop hard- and/or software filters to protect public decency or to enable parents to 'manage' public decency in their homes. Two countries are applying V-chip technology already, but also PIN protected channels, electronic warning systems for violent or offensive content on EPGs are feasible.

The convergence of Internet and traditional TV may require special attention when it comes to the protection of public decency. This is because when bringing these two media together it becomes far more likely than before that people are (accidentally) confronted with indecent or harmful content, *e.g.* via non-linear services or foreign websites. It should be considered that the enforcement of general law with regard to all AV-content may be a sufficient way to deal with this development.

Final comment: emerging issues

A final remark needs to be made on some emerging issues regarding AV-content distribution in a multi-platform environment that CISP might look into.

In a multiplatform and full IP environment a situation may arise when audiovisual services can become a totally new and dynamic field with P2P exchange of AV content, created by individuals, broadcasters and other entities. Content producers could be able to cater directly to all new markets without intermediates/gatekeepers; and all new content could be available on several devices and networks. This requires an environment where the new network owners provide equal access under equal conditions with no extra access barriers. This requires a network neutral policy approach.

Access in the new niche media may mean access to the network as well as access to content. Once the content is produced, it can be copied and distributed by anyone at no additional cost. This requires a policy approach which opens up markets to new players and innovations and guards against anti-competitive behaviour and the exercise of other forms of market power. There is a need for stimulating interoperability between different devices and different platforms such as between CAS.

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NOTES

- ¹ The European Union took up the policy challenges at the first signs of convergence. In 1997 the EU published a Green Paper: *On the convergence of the telecommunications, media and information technology sectors, and the implications for regulation towards an information society approach*. Already in this paper it has been argued “any horizontal approach should reflect the technological reality of the possibility of any network carrying any service and therefore confine the development of a horizontal approach to issues affecting the underlying infrastructure” (*Green Paper on convergence*, 1997).
- ² *OECD Communications Outlook 2005*, pp. 202-203, table 7.2. and table 7.6 (p. 222) for the number of DTV households.
- ³ See *OECD ICT Key Indicators*, ‘Broadband subscribers per 100 inhabitants in OECD countries’ Last updated on 11 April 2006. The overall broadband penetration in the OECD countries grew from 3.83 % in 2001 to 13.6 % in 2005.
- ⁴ This term was coined by Jürgen Habermas in *Strukturwandel der Öffentlichkeit* (1962) / *The structural transformation of the public sphere: an inquiry into a category of Bourgeois culture*, Cambridge Mass., MIT Press, 1989. For an in-depth discussion see Webster, 2002.
- ⁵ Graham Murdock, ‘Building the Digital Commons: public broadcasting in the age of the Internet. The 2004 Spry Memorial Lecture’ (<http://www.com.umontreal.ca/spry/spry-e.html>).
- ⁶ *The implications of convergence for regulation of electronic communications*, DSTI/ICCP/TISP(2003)5/FINAL, p.3.
- ⁷ http://ec.europa.eu/comm/avpolicy/docs/reg/modernisation/proposal_2005/com2005-646-final-en.pdf
- ⁸ The draft report (added as an annex to this paper): *Convergence and broadcasting regulation in 13 OECD countries. Advertising, language, national and EU production quota, protection of minors, public decency, must-carry*, TNO, Delft March 3 2006.
- ⁹ See footnotes to Table 13 from: *Telecommunication regulatory institutional structures and responsibilities*, OECD paper DSTI/ICCP/TISP(2005)6/FINAL and the annex to this paper (*Convergence and broadcasting regulation in 13 OECD countries. Advertising, language, national and EU production quota, protection of minors, public decency, must-carry*, TNO, Delft March 3 2006).
- ¹⁰ In the near future, a new standard must-carry rule with respect to the digital cable network will apply to all nationwide private broadcasters with regional windows.
- ¹¹ Carriage of public service content on satellite and cable platforms is determined by other arrangements.
- ¹² Provisions regarding product placement and/or forms of sponsorship have not been covered in this paper.
- ¹³ “Articulation of traditional and Internet TV”, A. Henten and R. Tadayoni, (2002).
- ¹⁴ *The implications of convergence for regulation of electronic communications*, OECD paper DSTI/ICCP/TISP/(2003)5/FINAL.
- ¹⁵ Considerations on must carry, quota on rules on public decency are based on information contained in the Annex for 13 OECD countries.
- ¹⁶ “Analysts also point to the increased number of paths into a household for video and argue that imposing must carry restrictions only on cable networks and telecommunication firms will create an unfair situation” (see DSTI/ICCP/TISP(2005)12/FINAL, p. 29).
- ¹⁷ European Commission, 1999, URL: [http://europa.eu.int/ISPO/convergencegp/com\(99\)108/com\(99\)108enfinal.html](http://europa.eu.int/ISPO/convergencegp/com(99)108/com(99)108enfinal.html).

ANNEX

This Annex provides a basic overview of broadcast regulation in 13 OECD countries.

These countries are:

- Australia
- Belgium/Flanders
- Canada
- France
- Germany
- Italy
- Japan
- Norway
- Portugal
- Switzerland
- The Netherlands
- The United Kingdom
- The United States

The data in this report were compiled by TNO for the Dutch Ministry of Economic Affairs, Directorate General for Energy and Telecommunications between December 2005 and April 2006 as well as for the OECD Secretariat that will use the data for a paper on media regulation and convergence.

The report includes a summary of regulations on the following issues:

5. Must-carry and must-offer.
6. Advertising quota & separation of programmes and advertising.
7. National and original production quota.
8. Language quota.
9. Public decency rules.

How to read the data?

In interpreting and using these data the following should be considered:

Per country we provide a three-column overview. The first column lists the kind of regulation that is considered. In the second column we indicate whether the data apply to Public Service Broadcasters (PSB), Commercial Broadcasters, or both. The third column provides a summary of the regulations.

This report does not provide a comprehensive overview of all regulations concerning the five issues under consideration. For each of them we have provided the main rules. Legislation and co-regulatory and self-regulatory codes of practice often provide more detail.

We have based our information as much as possible on the original texts of media and telecom laws and codes of practice (co- and self-regulation). In some cases (Japan and Norway) we relied on English translations of these laws as provided on the websites of the regulator. We included as far as possible the most recent amendments or decrees that were available. For additional information we also consulted a number of other sources, such as overviews of the European Commission, the European Audiovisual Observatory or research issued by the European Commission. These sources are mentioned in the report.

The data were sent to contact persons at Ministries and/or regulatory bodies for a final check on their accuracy. We received positive confirmations and some minor corrections for Belgium, Canada, Germany, Norway, Japan, Portugal, Switzerland and the United States. The remaining contact persons promised to respond, but failed to do so before the deadline.

For each country we have mentioned in an opening section the relevant laws and decrees that contain regulations concerning the issues dealt with in this report as well as the main regulatory bodies.

Some issues are not laid down in laws but are regulated through self- and/or co-regulatory measures. If codes of practice or other rules apply, we have indicated this and we have included the main points addressed in these codes in our overview. We also indicate when the law stipulates that co- and/or self-regulatory measures are required and/or mandatory.

For EU Member States, all issues under consideration, apart from the must-carry regulations and EPG regulations, are derived from the EC Directive Television Without Frontiers (TWF). The European Framework for Electronic Communication Networks stipulates under what conditions regulators may impose must-carry obligations on providers of electronic communication networks. In the appendix we briefly list the main provisions in the TWF Directive as well as articles 31, 43, and 44 of the Framework concerning must-carry obligations of the USD Directive.

In the overviews per country we have indicated when EU regulation applies. We have not duplicated the EU provisions when they were literally transposed in the national law. We have however incorporated remarkable additional regulations and/or different wordings of the regulations.

The TWF Directive contains definitions and minimum requirements that Member States have to implement in national legislation. Member States may lay down more detailed or stricter rules for broadcasters under their jurisdiction. This has resulted in considerable variation between EU Member States concerning content regulations and restrictions placed on advertisements. Member countries also have different definitions of broadcasting resulting in differences concerning the type of audiovisual content to which the rules apply. The recent EC proposals for a review of the TWF attempt to harmonize definitions of broadcasting, thereby providing more legal certainty to stakeholders and contributing to more uniform regulations within the European internal market. However, at present, broadcasting services still have to comply with the rules of the current TWF Directive. It will be some time before a final decision on the revision of the TWF Directive is taken and before Member States incorporate the changes in their national media laws.

Must-carry obligations were originally included in legislation to guarantee that (privatised) network operators would carry channels considered to be of public interest on their networks. This was especially relevant for analogue networks with limited and usually scarce capacity. Increasing availability of bandwidth in digital networks and increasing competition between networks have raised the question of the extent to which must-carry provisions are still relevant. However, as scarcity is not merely a matter of technical availability but also an economic issue, some governments have kept must-carry obligations in place. The result of increasing availability of network capacity is an ongoing debate as to whether must-carry obligations apply to analogue networks only, or also to digital networks. As the provisions originate in an era where the distinction was not yet considered, laws often do not make this explicit. In the overview in this chapter we have reproduced the original wording of the legal documents and only added ‘analogue’ or ‘digital’ if this specification was also explicitly made in the relevant national laws.

In the section on EPGs and ‘must-list’ obligations we have only addressed specific obligations concerning must-list provisions. Must-list provisions oblige service and/or network providers that also offer an EPG to list particular programmes and grant specified (usually public service) broadcasters a place of due prominence on their EPGs. We have not included access provisions regulated by Telecommunications legislation.²

In the 13 countries incorporated in this report, ‘must-list’ provisions only apply to public broadcasters (in EU countries) or the main television networks (in the US). The broadcast channels concerned are in most cases also carried by the network provider that offers the EPG. It would not make much sense to list channels that cannot be received by end-users in an EPG. This is not automatically implied however.

² The EU electronic communications regulatory framework offers national regulators the possibility to impose access obligations on network providers for APIs and EPGs (Framework Directive 2002/21/EC, articles 6, 7, and 9-13, http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_108/l_10820020424en00330050.pdf). EU Member States are obliged to incorporate this framework in their national legislation.
See also the Access Directive (Directive 2002/19/EC, http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_108/l_10820020424en00070020.pdf)

AUSTRALIA

<p>Audiovisual policy</p>	<p>The Department of Communications, Information Technology and the Arts www.dcita.gov.au</p> <ul style="list-style-type: none"> ■ The Australian Communications and Media Authority (ACMA) was established in 2005 in order to meet the new challenges posed by the convergence of broadcasting and telecom technologies. ACMA is responsible for regulating telecommunications, broadcasting, radio communications, and online content. Codes of practice regulating most aspects of programme content are developed by industry groups representing the various broadcasting sectors. ACMA registers codes once it is satisfied that broadcasters have undertaken appropriate public consultation and the codes contain appropriate community safeguards. www.acma.gov.au For Internet and mobile content, ACMA administers a co-regulatory scheme (involving Government, industry and the community) aiming to address community concerns about illegal and offensive content on the Internet. www.iaa.net.au/contentcode.html ■ The Australian Competition and Consumer Commission (ACCC), www.accc.gov.au
<p>Legislation</p>	<p><u>Relevant national legal framework:</u></p> <ul style="list-style-type: none"> ■ The Australian Communications and Media Authority Act 2005 ■ The Broadcasting Services Act 1992 www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/all/search/74F0F3085A1A4C37CA25702800156D30 ■ The Radiocommunications Act 1992 ■ The Interactive Gambling Act 2001 ■ The Legislative Instruments Act 2003 (for the protection of minors) <p><u>Other relevant laws and regulatory acts:</u></p> <ul style="list-style-type: none"> ■ The Commercial Television Industry Code of Practice, www.freetvaust.com.au/Content_Common/pg-Code-of-Practice.seo ■ The IIA Content Codes of Practice (version 10.4) incorporating new mobile content protections for Australian families <p><u>Internet codes & standards:</u> www.aba.gov.au/contentreg/codes.shtml</p>

A. Content distribution rules

<p>Must-carry</p>		<p>N/a</p>
<p>Must-offer Must-list on EPGs (Electronic Programme Guides)¹</p>		<p>Condition relating to electronic programme guides (EPG): <i>a)</i> A datacasting² licensee may transmit an electronic programme guide containing information about the programmes transmitted by the licensee. <i>b)</i> If a datacasting licensee transmits an electronic programme guide containing information about any programmes transmitted by a commercial television broadcasting service or a national television broadcasting service, the licensee must transmit equivalent information about programmes transmitted by itself and by each other commercial television broadcasting service or a national television broadcasting service. A datacasting licensee is <i>not</i> required to transmit information about programmes transmitted by a national or commercial television broadcasting service unless the national broadcaster or the commercial television broadcasting licensee concerned has requested the datacasting licensee to transmit that information. That information must be provided: <i>a)</i> In a timely manner. <i>b)</i> At no cost and <i>c)</i> In a form (and accompanied by any necessary digital systems information) that reasonably enables its inclusion in an electronic programme guide.</p>

B. Advertising

<p>Advertising quota</p>	<p>PSB TV^{9,10}</p>	<p>The <i>Australian Broadcasting Corporation (ABC)</i> – no advertising (the broadcaster is funded entirely through an Australian Government grant-in-aid).</p> <p>The multicultural <i>Special Broadcasting Service (SBS)</i>, Australia's other public broadcaster, now accepts limited sponsorship and advertising. SBS may only broadcast advertisements that run before or after programmes or during natural breaks and that run in total for not more than 5 minutes in any hour of broadcasting.</p> <p>Each 30 minutes before C period may contain no more than 7 minutes in total of G-classified advertisements.¹</p> <p>Before C period and whilst an Australian drama for children is broadcast, the maximum amount of advertisements, programme promotions, station identifications and community service announcements is 13 minutes per hour.</p> <p>During any 30 minutes before C period a licensee may broadcast the same advertisement no more than twice.</p> <p>Each 30 minutes during the C period may contain no more than 7 minutes in total of G-classified advertisements.¹</p> <p>Advertisements for alcoholic drinks and references to a company, person or organisation whose principal activity is the manufacture, distribution or sale of alcoholic drinks may not be broadcast:</p> <ul style="list-style-type: none"> - During a P or C period. - During a C or P programme that is broadcast after the watershed, or in a break immediately before or after any C or P programme.
	<p>Commercial TV⁴</p>	<p>On any day, each licensee may in each hour schedule on average no more than the following amounts of non-programme matter³:</p> <ul style="list-style-type: none"> - Between 6p.m. and midnight – 13 minutes.

		<p>- At all other times – other than in P or C periods – 15 minutes. Provided these averages are satisfied, in any hour, each licensee may schedule the following amounts of non-programme matter:</p> <ul style="list-style-type: none"> - Between 6 p.m. and midnight outside election periods – up to 15 minutes per hour, but with no more than 14 minutes scheduled in any 4 of those hours. - Between 6 p.m. and midnight in election periods – up to 15 minutes per hour, plus 1 minute per hour of non-programme matter that is political matter, provided that the licensee supplies to Free TV Australia for public release an hourly summary of political advertising and other non-programme matter in respect of each day in which this additional minute has been utilised. - At all other times – up to 16 minutes. <p>In P and C periods scheduled in accordance with the Children’s Television Standards:</p> <ul style="list-style-type: none"> - No commercials may be broadcast in any P period. - Each 30 minutes of a C period may contain no more than 5 minutes of commercials and one minute of G programme promotions or station identification. <p>The standard for Australian Content in Advertising requires at least 80% of <i>advertising time</i> (other than the time occupied by exempt advertisements⁴) broadcast each year by commercial free-to-air television licensees, between the hours of 6 a.m. and midnight, to be used for Australian-produced advertisements.⁵</p>
<p>Separation of advertisements and programmes – internal breaks</p>	<p>Commercial TV⁴</p>	<p>No advertisements may be broadcast during programmes for pre-school children. During C period advertisements must be clearly distinguishable as such to the child viewer.</p>

C. Content quota

<p>1. Australian and original production quota</p>	<p>PSB</p> <p>Commercial TV – free-to-air²</p>	<p>No quota but yearly targets.¹⁶</p> <p>The standard for Australian content requires an annual minimum transmission quota of 55% of Australian programming between 6 a.m. and midnight including first release and repeat programmes. The breakdown per category in minimum annual quota is:</p> <ul style="list-style-type: none"> - Australian drama: 250 hours of first-release programmes. - Australian documentary: 20 hours of first-release programmes. - Australian children’s programmes: 130 hours of first-release programmes of which Australian children’s drama: 25 hours of first-release programmes (and 8 hours of repeat programmes). - Australian preschool programmes: 130 hours. <p>The standard for <i>Australian content in advertising</i> requires at least 80% of advertising time broadcast each year by commercial free-to-air television licensees, between the hours of 6 a.m. and midnight, to be used for Australian-produced advertisements.¹⁰</p>
<p>Language quota</p>		<p>N/a.</p>

D. Content policy

<p>Public decency rules</p> <p>1. Protection of minors</p>	<p>PSB & Commercial TV¹²</p>	<p>Several <i>watersheds</i> are observed:</p> <ul style="list-style-type: none"> - <i>P period</i> (programmes suitable for <i>preschool children</i>): 7 a.m. to 4.30 p.m. Monday to Friday. - <i>C period</i> (programmes suitable for <i>children</i>) <ul style="list-style-type: none"> a) 7 a.m. to 8 a.m. and 4 p.m. to 8.30 p.m. Monday to Friday. b) 7 a.m. to 8.30 p.m. Saturday, Sunday and school holidays. <p>No <i>prizes</i> may be offered or given during P period. During C period:</p> <ul style="list-style-type: none"> a) The presenter may not recommend or endorse a product or service which is presented as a prize, nor encourage children to buy it. b) The price or value of a prize may not be mentioned. c) Any description by the presenter should only be to clarify the nature of the prize. <p>Unsuitable material</p> <p>During P and C periods, programmes may not:</p> <ul style="list-style-type: none"> a) Demean any person or group on the basis of ethnicity, nationality, race, gender, sexual preference, religion, or mental or physical disability. b) Present images or events in a way which is unduly frightening or unduly distressing to children. c) Present images or events which depict unsafe uses of a product or unsafe situations which may encourage children to engage in activities dangerous to them. d) Advertise products or services which have been officially declared unsafe or dangerous by a Commonwealth authority or by an authority having jurisdiction within the licensee's licence area. <p>No advertisement may:</p> <ul style="list-style-type: none"> - Mislead or deceive children. - Put undue pressure on children to ask their parents or other people to purchase an advertised product or service. - State or imply that: <ul style="list-style-type: none"> a) A product or service makes children who own or enjoy it superior to their peers. Or, b) A person who buys an advertised product or service for a child is more generous
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		<p>than a person who does not.</p> <p>Commercial TV advertisements directed to children (people younger than 14 years of age) for food and/or beverages:</p> <ul style="list-style-type: none"> - Should not encourage or promote an inactive lifestyle. - Should not encourage or promote unhealthy eating or drinking habits. - Must not contain any misleading or incorrect information about the nutritional value of the product.⁴
<p>2. Harm, offence, crime, racism, violence and pornography</p>	<p>PSB & Commercial TV^{14, 15, 17, 18}</p>	<p>Both PSBs and commercial broadcasters observe the same general rules with regard to matter prohibited for broadcast involving harm, offence, crime, racism, violence and pornography. PSBs' rules have a self-regulatory character and are laid down in their codes of practice.</p> <p>Broadcasters must not broadcast a programme which:</p> <ul style="list-style-type: none"> - Is likely to incite, encourage or present for its own sake violence or brutality. - Simulates news or events in such a way as to mislead or alarm listeners. - Presents as desirable: the misuse of alcoholic liquor or the use of illegal drugs, narcotics or tobacco. - Depicts suicide favourably or presents suicide as a means of achieving a desired result or is likely to incite or perpetuate hatred against or vilify any person or group on the basis of age, ethnicity, nationality, race, gender, sexual preference, religion or physical or mental disability. <p>Special attention should be paid when portraying (the role of) women and Indigenous Australians, people experiencing mental illness, etc. The Codes of Practice for commercial TV and radio provide lists of preferred and offensive terminology.</p> <p>All programme content must meet contemporary standards of decency, having regard to the likely characteristics of the audience of the licensee's service.</p> <p>The gratuitous use in a programme of language likely to offend the anticipated audience for that programme must be avoided.</p> <p>The Commercial TV code of practice makes further, detailed provisions regarding material that will invariably be unsuitable for television. It includes:</p> <ul style="list-style-type: none"> - Violence: Sustained, relished or excessively detailed acts of violence, unduly bloody or horrific depictions, strong violence that has high impact or which is gratuitous or exploitative or depiction of exploitative or non-consensual sexual relations as desirable.

		<ul style="list-style-type: none"> - Sex and nudity: Detailed genital nudity in a sexual context, or explicit depiction of sexual acts. - Language: Very coarse language that is aggressive and very frequent. - Drugs: Detailed depiction of intravenous drug use, or instruction or encouragement in illegal drug use. - Suicide: Realistic depiction of methods of suicide, or promotion or encouragement of suicide.¹⁵
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GLOSSARY

P (programme & period) = pre-school children’s (programme & period).

Pre-school children = children who have not yet started school.

C (programme & period) = children’s (programme & period).

Children = people younger than 14 years of age.

G = general viewing .

PG = parental guidance.

The Australian regulator also recognises the ‘twens’ as a distinct segment of the child audience, as well as acknowledging the overlap in the developmental stages of children between the ages of 5-7 years, 7-11 years, and 10-13 years.

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2. *Datacasting service* means a service that delivers content: *a*) whether in the form of text; or *b*) whether in the form of data; or *c*) whether in the form of speech, music or other sounds; or *d*) whether in the form of visual images (animated or otherwise); or *e*) whether in any other form; or *f*) whether in any combination of forms; to persons having equipment appropriate for receiving that content, where the delivery of the service uses the broadcasting services bands. The Broadcasting Services Act 1992.
3. *Non-programme matter* means a spot commercial, advertising, programme promotion, other matter of the kind which contains more than ten seconds of visual material from any programme or programs broadcast by a commercial station. For exempt non-programme matter, see the Commercial Television Industry Code of Practice, 2004 www.freetvaust.com.au/Content_Common/pg-Code-of-Practice.seo
4. The following classes of advertisements are exempt: advertisements for imported cinema films, videos and recordings; advertisements for live appearances by overseas entertainers; paid community service announcements for organisations that have a charitable, public health or educational purpose. www.acma.gov.au/ACMAINTER.327926:STANDARD:1672313320:pc=PC_91808
5. www.acma.gov.au/ACMAINTER.131684:STANDARD:pc=PC_91809
6. *Substantial numbers of children* means that children comprise 30% or more of the programme's total audience or that 20% or more of all children in television homes in the licence area are viewing the programme; Commercial Television Industry Code of Practice, www.freetvaust.com.au/Content_Common/pg-Code-of-Practice.seo
7. ACMA, www.acma.gov.au/ACMAINTER.131684:STANDARD:pc=PC_91809
8. Commercial Radio Codes Of Practice & Guidelines, Appendix 8; Federation of Australian Radio Broadcasters, Commercial Radio Codes of Practice and Guidelines, www.aph.gov.au/senate/committee/it_ctte/completed_inquiries/1999-02/selfreg/report/e08.doc
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11. SBS Codes of Practice, 2002, www20.sbs.com.au/sbscorporate/index.php?id=570
12. Children's Television Standards 2005, www.acma.gov.au/acmainterwr/aba/contentreg/codes/television/documents/childrenstelevisionstandard-nov05.pdf
13. Australian Broadcasting Authority, Annual report 2003-2004, www.acma.gov.au/acmainterwr/aba/newspubs/info_about_us/documents/intro.pdf
14. Commercial Radio Australia, Codes of Practice & Guidelines, 2004, www.aba.gov.au/contentreg/codes/radio/documents/CRA-CodeofPractice.pdf
15. Commercial Television Industry Code of Practice, 2004, www.freetvaust.com.au/Content_Common/pg-Code-of-Practice.seo
16. *NB* Under the Australia New Zealand Closer Economic Relations Trade Agreement (the CER), New Zealand productions and Australian-New Zealand official co-productions enjoy all the benefits accorded to Australian programmes and count towards the mandatory Australian content quota.
17. SBS codes of practice, www.sbs.com.au/sbscorporate/index.html?id=570
18. ABC codes of practice, www.abc.net.au/corp/pubs/codeprac04.htm

BELGIUM - FLANDERS

<p>Audiovisual policy</p>	<ul style="list-style-type: none"> ■ The Department for Science, Innovation and Media (Administration Media) of the Ministry for the Flemish Community. ■ The Flemish Media Council (Mediaraad) – advisory role only. <p><i>Before 2006:</i></p> <ul style="list-style-type: none"> ■ The Flemish Media Authority (<i>het Vlaams Commissariaat voor de Media</i>) ■ The Flemish Council of Disputes for Radio and Television (<i>de Vlaamse Geschillenraad voor Radio en Televisie</i>) ■ The Flemish Listening and Viewing Council (<i>de Vlaamse Kijk- en Luisteraad</i>). <p><i>Currently:</i></p> <p>Following the coming into force of the Decree of 16 December 2005, the three regulatory bodies merged to form a single autonomous agency, the Flemish Regulator for the Media (<i>Vlaamse Regulator voor de Media</i>), in order to promote transparency, better incorporate EU directives and accommodate emerging media and the phenomenon of media convergence. Since 10 February 2006, the Flemish Regulator for the Media has been fully operational.</p>
<p>Legislation</p>	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> ■ Co-ordinated decrees regarding radio and television broadcasting stations of 4 March 2005 (<i>Gecoördineerde decreten betreffende de radio-omroep en de televisie, gecoördineerd op 4 maart 2005</i>), http://www2.vlaanderen.be/ned/sites/media/media/decreten4maart05.pdf <p>Further amended by the:</p> <ul style="list-style-type: none"> • <i>Decreet houdende wijziging van de decreten betreffende de radio-omroep en de televisie</i> (in force since 19.09.2005), link http://www.vlaamsparlement.be/docs/perkament/2004-2009/perkament321.pdf • <i>Decreet houdende de toevoeging van een derde lid aan artikel 157 en houdende wijziging van de artikelen 159 en 161 van de decreten betreffende de radio-omroep en de televisie, gecoördineerd op 4 maart 2005</i>. • <i>Decreet (16.12.2005) houdende de oprichting van het publiekrechtelijk vormgegeven extern verzelfstandigd agentschap Vlaamse Regulator voor de Media en houdende de wijziging van sommige bepalingen van de decreten betreffende de radio-omroep en de televisie, gecoördineerd op 4 maart 2005</i>. <p>- White paper: <i>Media 2004-2009 (Beleidsnota Media 2004-2009, Beleid voor een media-(r)evolutie ten dienste van de Vlaming)</i></p>

	<p>www.vlaanderen.be/servlet/Satellite?blobcol=urlbestand&blobheader=application%2Fword&blobheadername=Content-Disposition&blobheadervalue1=attachment%3Bfilename%3DBeleidsnota+Media.doc&blobkey=id&blobtable=IL_Bestanden&blobwhere=1103027414447&ssbinary=true</p> <p><i>Other relevant laws and regulatory acts:</i> Administration Agreement between the VRT and the Flemish Community 2002-2006 (<i>Beheersovereenkomst tussen de VRT en de Vlaamse Gemeenschap, 2002-2006</i>), www.vrt.be/extra/beheersovereenkomst2006.pdf</p>
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A. Content distribution rules

<p>Must-carry^{1,4}</p>	<p>Within the Flemish Community, there are 11 broadcast areas, evenly distributed over the provinces, and a corresponding 11 regional broadcasters accredited by the Flemish Media Authority. Each regional broadcaster's geographical area of activity is limited to its corresponding broadcast area. Each broadcast area is defined by specific sociological characteristics and technical capabilities, and may not exceed 15% of the total number of inhabitants of the Dutch-language area and the dual-language area of the capital city, Brussels. Cable operators located in any of the broadcast areas must offer free of charge, unaltered, and simultaneously:</p> <ul style="list-style-type: none"> - All Dutch-language analogue radio programmes and all TV programmes of the Flemish public broadcasters. - The same rules apply for regional TV programmes in their geographic area of relevance. - All TV programmes of the regional broadcasters which, in digital format, are available only via pay-TV. - 2 radio and 2 TV programmes of the French Community PSB and the radio programme of the German Community. - Two PSB radio stations and all PSB TV stations broadcast from the Netherlands. <p>Exceptions to this rule can be found in the Co-ordinated decrees regarding radio and television broadcasting stations of 4 March 2005, page 51.</p> <p>For DVB-T only a <i>may-carry</i> rule applies – <i>i.e.</i> PSBs' obligation to make their programmes available for broadcast to platform operators. Platform operators are not entitled to charge either the government or the PSBs for broadcasting these programmes.¹</p>
<p>Must-offer</p>	<p>PSBs are required to make their programmes available for broadcast to platform operators.</p>
<p>Must-list on EPGs (Electronic Programme Guides)</p>	<p>Electronic communication network operators must make EPG facilities available and affordable for selected digital services.</p>

B. Advertising

<p>Advertising quota</p>	<p>PSB TV^{2,3} – virtually advertising-free</p>	<p>- <i>Kemet</i> (dedicated channel for children) – free of advertising and sponsoring. - <i>Een</i> – only open-screen (informative programmes) and public service announcements of government and not-for-profit organisations. - <i>Canvas</i> – only public service announcements of government and not-for-profit organisations.</p> <p>Structural sales of a set number of GRPs (the equivalent of 1% of the viewing figures) through yearly public sales are known as ‘<i>TV-alliantiepartnershippaketten</i>’ and cannot exceed EUR 8.7 millions in net revenues.</p> <p><i>The EU quota provisions apply.</i></p>
<p>Separation of advertisements and programmes – internal breaks¹</p>	<p>Commercial TV</p>	<p>On commercial TV stations it is allowed to insert advertisements during the course of a programme: a) if they occur during a natural break and/or do not damage the integrity or value of the programme in which they occur and b) unless they fall in one of the following categories:</p> <ul style="list-style-type: none"> ▪ Religious services or other devotional programmes. ▪ News programmes. ▪ Children’s programmes. ▪ TV-films shorter than 45 minutes. ▪ Documentaries and current affairs programmes shorter than 20 minutes.

C. Content quota

EU/national production quota¹	PSB & Commercial TV	Where practicable, television broadcasters shall ensure that: - European productions account for over 50% of the transmission hours of each broadcaster, of which a substantial proportion should be dedicated to Dutch-language productions. - European independent productions account for at least 10% of transmission hours; of these, an 'adequate proportion' must be works transmitted within five years of production; special attention should be paid to recent Dutch-language productions. The transmission hours exclude the time dedicated to news or sports event programming, games, teletext services or teleshopping.
Flemish production quota¹	PSB TV	Flemish TV productions and co-productions must account for 50% of the total transmission time between 6p.m. and 11p.m.
Language quota¹		N/a.

D. Content policy

<p>Public decency rules⁴</p> <p>1. Protection of minors</p>	<p>PSB & Commercial TV</p>	<p><i>The EU provisions apply.</i></p> <p>Material that might seriously impair the physical, mental or moral development of minors must not be broadcast.</p> <p>On premium subscription film services which are not PIN-protected the watershed for adult programming is set at 7 p.m. and ends at 10 p.m. Offensive programmes during this time should be preceded by an audio warning signal. There is no watershed on premium subscription film services or pay-per-view services which are PIN-protected.</p> <p>No advertisements may be broadcast within 5 minutes before the beginning and after the end of children's programmes.</p>
<p>2. Harm, offence, crime, racism, violence and pornography</p>	<p>PSB & Commercial TV</p>	<p><i>The EU provisions apply.</i></p> <p>Programmes containing incitement to hatred on any ground, pornographic material or gratuitous violence must not be broadcast.</p>

REFERENCES

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2. Administration Agreement between the VRT and the Flemish Community 2002-2006, www.vrt.be/extra/beheersovereenkomst2006.pdf
3. For the public broadcast (radio & TV), all advertising and sponsoring content was contracted out to the VAR (Vlaamse Audiovisuele Regie), www.var.be
4. Co-ordinated decrees regarding radio and television broadcasting stations of 4 March 2005, <http://www2.vlaanderen.be/ned/sites/media/media/decreten4maart05.pdf>

CANADA

Audiovisual policy	<p>The Department of Canadian Heritage, the Broadcasting Policy and Programs Branch www.pch.gc.ca/pc-ch/sujets-sujets-culture/arts-culture/diffusion-broadcasting/index_e.cfm</p> <p>Canadian Radio-television and Telecommunications Commission, www.crtc.gc.ca</p>
Regulator	<p><i>Self-/Co-regulatory bodies:</i></p> <ul style="list-style-type: none"> ■ Canadian Association of Broadcasters in co-operation with Advertising Standards Canada ■ The Canadian Broadcast Standards Council (CBSC), www.cbsc.ca
Legislation	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> ■ The Broadcasting Act (S.C. 1991, c. 11, as amended), www.crtc.gc.ca/eng/LEGAL/BROAD.htm ■ The Canadian Radio-television and Telecommunications Commission Act (R.S.C. 1985, c. C-22, as amended), www.crtc.gc.ca/eng/LEGAL/CRTC.HTM ■ Bell Canada Act (S.C. 1987, c.19 as amended), http://lois.justice.gc.ca/en/B-3.6/index.html <p><i>Relevant regulations:</i></p> <ul style="list-style-type: none"> ■ The Broadcasting Distribution Regulations (for cable television), www.crtc.gc.ca/eng/LEGAL/BDU.HTM ■ The Television Broadcasting Regulations, 1987, www.crtc.gc.ca/eng/LEGAL/TVREGS.HTM <p><i>Other relevant (regulatory) acts/regulations:</i></p> <ul style="list-style-type: none"> ■ The Broadcast Code for Advertising to Children www.adstandards.com/en/clearance/clearanceAreas/broadcastCodeForAdvertisingToChildren.asp#theCode ■ Code for Broadcast Advertising of Alcoholic Beverages, CRTC, 1 August 1996

A. Content distribution rules

Must-carry^{1,2}

Distribution undertakings should give priority to the carriage of *Canadian programming services* and, in particular, to the carriage of local Canadian stations, and should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services.¹

Cable licensees in Canada are divided into 3 classes according to their respective numbers of subscribers:

A Class 1 and 2 licensee shall distribute in each licensed area the following *television programming services* as part of its basic service, in the following order of priority:

- a) The programming services of all local television stations owned and operated by the Corporation.
 - b) The educational television programming services received over the air or by satellite or microwave relay, the operation of which is the responsibility of an educational authority designated by the province in which the licensed area of the undertaking is located.
 - c) The programming services of all other local television stations.
 - d) The programming services of a regional television station owned and operated by the Corporation, unless the licensee is distributing the programming services of a local television station owned and operated by the Corporation that broadcasts in the same official language as the regional television station.
 - e) The programming services of all other regional television stations, unless the licensee is distributing the programming services of a television station that is an affiliate or member of the same network.
 - f) If they are received by satellite or microwave relay and if they are not being distributed under paragraph a), c), d) or e), the programming services of at least one television station that broadcasts in English and at least one that broadcasts in French that are owned and operated by, or that are affiliates of, the Corporation.
 - g) The programming services of an extra-regional television station owned and operated by the Corporation, unless the licensee is distributing the programming services of a television station owned and operated by the Corporation that broadcasts in the same official language as the extra-regional television station.
 - h) The programming services of all other extra-regional television stations that are not affiliates or members of the network to which a station referred to in any of paragraphs a) to g) belongs.
 - i) If the licensee is operating in a francophone market, the House of Commons programming service, including the main audio channel of that service in the French language and an auxiliary audio channel of the service in the English language.
 - j) If the licensee is operating in an Anglophone market, the House of Commons programming service, including the main audio channel of that service in the English language and an auxiliary audio channel of the service in the French language.
- A licensee of a cable distribution undertaking shall distribute in each licensed area the programming services referred to beginning with the basic band.²

	<p>For class 3 licensee (fewer subscribers than classes 1 and 2), similar but relatively lighter rules apply.</p> <p>Cable broadcasting distribution undertakings who have 2 000 or more subscribers, whether or not they are exempted from licensing by the Commission, to reserve two video channels, one channel for the English-language service and the other for the French-language service, for the distribution of the licensed and exempted programming service provided by the Canadian Public Affairs Channel (CPAC). One of the video channels shall be on the basic service.³</p> <p>Television programming services that must be distributed by licensees using digital technology</p> <p>A licensee that has a nominal capacity of at least 550 MHz in a licensed area and that makes use of digital technology for the delivery of any programming service in the licensed area shall distribute in the licensed area:</p> <p><i>a)</i> At least one English-language Canadian specialty service for every 10 French-language programming services distributed by the licensee in the licensed area, if the licensee is operating in a Francophone market.</p> <p><i>b)</i> At least one French-language Canadian specialty service for every 10 English-language programming services distributed by the licensee in the licensed area, if the licensee is operating in an Anglophone market.</p> <p><i>c)</i> The English and French language versions of the House of Commons programming service.</p> <p>Except as otherwise provided under a condition of its licence, a licensee that delivers any programming service to any subscriber on a digital basis, shall distribute, on a digital basis:</p> <p><i>a)</i> The programming service of a community-based low-power television station to the subscribers of the distribution undertaking who reside within the service area of the community-based low-power television station.</p> <p><i>b)</i> The programming service of a community-based digital undertaking to the subscribers of the distribution undertaking who reside within the service area of the community-based digital undertaking.²</p> <p>A cable operator operating in a licensed area that is an Anglophone market shall distribute on an analogue basis, in the licensed area, at least the same number of French-language Canadian programming services as it distributed on an analogue basis in the licensed area on 10 March 2000.</p> <p>(Extensive may-carry and may-not-carry rules are listed in the Canadian Radio-television and Telecommunications Commission's Broadcasting Distribution Regulations, www.crtc.gc.ca/eng/LEGAL/BDU.HTM)</p>
Must-offer	N/a.
Must-list on EPGs (Electronic Programme Guides)	N/a.

B. Advertising

<p>Advertising quota</p>	<p>PSB TV⁶</p> <p>A maximum time limit of 12 minutes per clock hour of advertising material applies on CBC's two main television networks and on Newsworld, and 8 minutes on RDI (national French-language television news service). Advertising material means any commercial message, public service announcement and programming that promotes a station, network or programme.</p> <p>Advertising directed to children is acceptable on a limited basis: maximum two minutes per clock half-hour/four minutes per clock hour, in and adjacent to programmes designated by CBC as having an overall family/adult audience appeal.</p> <p>The same commercial message or more than one commercial message promoting the same product cannot be aired more than once in a half-hour children's programme.⁴ In children's programmes of longer duration, the same commercial message or more than one commercial message promoting the same product must not appear more than once in any half-hour period. No station or network may carry more than 4 minutes of commercial messages in any one half-hour of children's programming or more than an average of 8 minutes per hour in children's programmes of longer duration.</p> <p>Advertising directed to children is acceptable on a limited basis (maximum 2 minutes per clock half hour/4 minutes per clock hour) in and adjacent to programmes designated by the CBC as having an overall family/adult audience appeal.⁵</p> <p>In children's programmes, only paid commercial messages are included in the 4 minutes per half-hour limitation.</p> <p>A station operator or a network operator shall not broadcast more than 12 minutes of advertising material in any clock hour in a broadcast day.</p> <p>Where a programme occupies time in 2 or more consecutive clock hours, a licensee may exceed that maximum number of minutes of advertising material during any of those clock hours if the average number of minutes of advertising material broadcast during the clock hours occupied by the programme does not exceed 12 minutes.</p> <p>In addition to the maximum of 12 minutes of advertising material, a licensee may broadcast, during each clock hour, a maximum of 30 seconds of advertising material that consists of unpaid public service announcements.</p>
<p>Commercial TV⁶</p>	<p>The same commercial message or more than one commercial message promoting the same product cannot be aired more than once in a half-hour children's programme.⁴ In children's programmes of longer duration, the same commercial message or more than one commercial message promoting the same product must not appear more than once in any half-hour period. No station or network may carry more than 4 minutes of commercial messages in any one half-hour of children's programming or more than an average of 8 minutes per hour in children's programmes of longer duration.</p> <p>Advertising directed to children is acceptable on a limited basis (maximum 2 minutes per clock half hour/4 minutes per clock hour) in and adjacent to programmes designated by the CBC as having an overall family/adult audience appeal.⁵</p> <p>In children's programmes, only paid commercial messages are included in the 4 minutes per half-hour limitation.</p> <p>A station operator or a network operator shall not broadcast more than 12 minutes of advertising material in any clock hour in a broadcast day.</p> <p>Where a programme occupies time in 2 or more consecutive clock hours, a licensee may exceed that maximum number of minutes of advertising material during any of those clock hours if the average number of minutes of advertising material broadcast during the clock hours occupied by the programme does not exceed 12 minutes.</p> <p>In addition to the maximum of 12 minutes of advertising material, a licensee may broadcast, during each clock hour, a maximum of 30 seconds of advertising material that consists of unpaid public service announcements.</p>
<p>PSB & Commercial TV⁶</p>	<p>The same commercial message or more than one commercial message promoting the same product cannot be aired more than once in a half-hour children's programme.⁴ In children's programmes of longer duration, the same commercial message or more than one commercial message promoting the same product must not appear more than once in any half-hour period. No station or network may carry more than 4 minutes of commercial messages in any one half-hour of children's programming or more than an average of 8 minutes per hour in children's programmes of longer duration.</p> <p>Advertising directed to children is acceptable on a limited basis (maximum 2 minutes per clock half hour/4 minutes per clock hour) in and adjacent to programmes designated by the CBC as having an overall family/adult audience appeal.⁵</p> <p>In children's programmes, only paid commercial messages are included in the 4 minutes per half-hour limitation.</p> <p>A station operator or a network operator shall not broadcast more than 12 minutes of advertising material in any clock hour in a broadcast day.</p> <p>Where a programme occupies time in 2 or more consecutive clock hours, a licensee may exceed that maximum number of minutes of advertising material during any of those clock hours if the average number of minutes of advertising material broadcast during the clock hours occupied by the programme does not exceed 12 minutes.</p> <p>In addition to the maximum of 12 minutes of advertising material, a licensee may broadcast, during each clock hour, a maximum of 30 seconds of advertising material that consists of unpaid public service announcements.</p>

		In addition to the same maximum of 12 minutes of advertising material, a licensee may broadcast partisan political advertising during an election period. ⁶
Separation of advertisements and programmes – internal breaks	PSB TV⁶	Advertising messages may be scheduled in news programmes but may not give the impression of news sponsorship. Advertising of any kind in programmes directed to children under 12 years of age is prohibited.

C. Content quota

National/Canadian production quota⁷	PSB & Commercial TV¹	Each broadcasting undertaking shall make maximum use, and in no case less than predominant use, of Canadian creative and other resources in the creation and presentation of programming, unless the nature of the service provided by the undertaking, such as specialised content or format or the use of languages other than French and English, renders that use impracticable, in which case the undertaking shall make the greatest practicable use of those resources.
	PSB & Commercial TV⁶	A station operator or a network operator shall devote not less than 60% of the broadcast year and of any six month period specified in a condition of licence to the broadcasting of Canadian programmes.
	PSB TV¹	The programming provided by the Canadian Broadcasting Corporation should be predominantly and distinctively Canadian.
	PSB TV⁸	CBC must ensure that at least 60% of its overall schedule, measured during the day – <i>i.e.</i> 6 a.m. to midnight, is Canadian.
	Commercial TV¹	Private networks and programming undertakings should, to an extent consistent with the financial and other resources available to them, contribute significantly to the creation and presentation of Canadian programming.

	Commercial TV	<p>Private television stations and networks (e.g. CTV, Global, TVA) and ethnic TV stations must achieve a yearly Canadian content level of:</p> <ul style="list-style-type: none"> - 60% overall, measured during the day – i.e. 6 a.m. and midnight. - 50%, measured during the evening broadcast period – i.e. between 6 p.m. and midnight.
Language quota	PSB & Commercial TV²	<p>A cable operator operating in a licensed area that is an Anglophone market shall distribute on an analogue basis, in the licensed area, at least the same number of French-language Canadian programming services as it distributed on an analogue basis in the licensed area on 10 March 2000.</p> <p>Except as otherwise provided under a licensee's conditions of licence, the station or network operator of an ethnic station shall devote to third language programmes (i.e. ethnic programmes in a language other than English, French, or a language of the Aboriginal peoples of Canada) at least 50% of the total number of hours devoted to broadcasting during the aggregate of the broadcast days in each of the four or five week periods in the calendar approved by the Commission.</p> <p>Except as otherwise provided under a licensee's condition of licence to devote up to 40% of a broadcast month to third language programs, the licensee of a station other than an ethnic station shall devote not more than 15% of its broadcast month to third-language programmes.⁶</p> <p>The programming provided by the Canadian Broadcasting Corporation should be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities.</p> <p>Only commercials that are specifically created for English- and French-speaking audiences are broadcast on the respective CBC English and French services. Commercials created in a language other than the broadcast language of the station may not be adapted by using subtitles as a translation device. The use of another language as an attention-getting device or for creative effect is acceptable.</p>
Independent Production quota	PSB & Commercial TV¹	<p>The programming provided by the Canadian broadcasting system should include a significant contribution from the Canadian independent production sector.</p>

D. Content policy

<p>Public decency rules</p> <p>1. Protection of minors</p>	<p>PSB & Commercial TV¹⁰</p>	<p><i>All standards apply equally to public and commercial broadcasters, unless otherwise specified.</i></p> <p>Broadcasters encode their programmes with content ratings so that households with Canadian V-chip-enabled televisions can use the technology to control the programming received in their homes.</p> <p>Subscribers to digital broadcasting services delivered by cable companies, direct-to-home (DTH) satellite services (Bell ExpressVu and StarChoice) and Multipoint Distribution Systems (MDS), such as Look TV, Sky Cable and Image Communications can access control features in their set top boxes to block out programming that is inappropriate for their families.</p>
<p>2. Harm, offence, crime, racism, violence and pornography</p>	<p>PSB & Commercial TV^{2, 6}</p> <p>Commercial TV</p>	<p><i>Prohibited programming content:</i></p> <ul style="list-style-type: none"> • Anything that contravenes any law. • Any abusive comment or abusive pictorial representation that, when taken in context, tends to or is likely to expose an individual or group or class of individuals to hatred or contempt on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, age or mental or physical disability. • Any obscene or profane language or pictorial representation. • Any false or misleading news. <p>Canada's private broadcasters developed voluntary codes that:</p> <ul style="list-style-type: none"> • Prevent the depiction of gratuitous or glamorised scenes of violence on television. • Establish a watershed hour so that programmes with scenes of violence intended for adult audiences are not aired before 9 p.m. • Establish special rules for children's programmes. • Establish special rules for scenes of violence aired during news and public affairs programmes. • Require written and oral viewer advisories at the beginning of any programme that may contain violent scenes, as well as similar advisories throughout the programme.^{11, 12}

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1. The Broadcasting Act 1991, www.crtc.gc.ca/eng/LEGAL/BROAD.htm
2. Canadian Radio-television and Telecommunications Commission, Broadcasting Distribution Regulations, www.crtc.gc.ca/eng/LEGAL/BDU.HTM
3. Direction to the CRTC (Reservation of Channels for the Distribution of CPAC), www.crtc.gc.ca/eng/LEGAL/cpac.htm
4. *Children* refers to persons under 12 years of age. Children's programme refers to programmes for an audience of up to 12 years of age.
5. The Broadcast Code for Advertising to Children: www.adstandards.com/en/clearance/clearanceAreas/broadcastCodeForAdvertisingToChildren.asp#theCode
6. Canadian Radio-television and Telecommunications Commission, The Television Broadcasting Regulations, 1987, www.crtc.gc.ca/eng/LEGAL/TVREGS.HTM
7. Broadcasters can claim a 125% to 150% time credit for Canadian dramas when they are aired during peak viewing hours (7 p.m. to 11 p.m.).
8. Regulations Respecting Radio Broadcasting (Radio Regulations), 1986: www.crtc.gc.ca/eng/LEGAL/Radioreg.htm
9. Canadian Content for Radio and Television, Fact sheet, www.crtc.gc.ca/eng/INFO_SHT/G11.htm
10. www.crtc.gc.ca/eng/INFO_SHT/b317.htm
11. www.crtc.gc.ca/eng/INFO_SHT/b317.htm
12. Broadcast Code for Advertising to Children, www.crtc.gc.ca/archive/ENG/Notices/1993/Pb93-99.htm

CANADA'S INTERNATIONAL OBLIGATIONS

Canada-United States Free Trade Agreement Implementation Act.

FINLAND

<p>Audiovisual policy</p> <p>Regulators</p>	<p>Ministry of Transport and Communications, www.mintc.fi</p> <p>Ministry of Justice (Freedom of Expression in Mass Media), http://www.om.fi/333.htm</p> <p>Finnish Communications Regulatory Authority, FICORA, http://www.ficora.fi/englanti/index.html</p> <p><i>Other relevant regulatory bodies:</i></p> <p>The Consumer Agency & Ombudsman, http://www.kuluttajavirasto.fi/user_nf/default.asp?site=36&tmf=0&lmf=0&id=0</p> <p>The Finnish Competition Authority, http://www.kilpailuvirasto.fi/cgi-bin/english.cgi?</p>
<p>Legislation</p>	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> - Act on Television and Radio Operations (744/1998), http://www.finlex.fi/en/laki/kaannokset/1998/en19980744, -The Act of Yleisradio Oy (Finnish Broadcasting Company Ltd.) (1380/1993, http://www.finlex.fi/en/laki/kaannokset/1993/en19931380.pdf - The Radio Act (1015/2001), http://www.finlex.fi/en/laki/kaannokset/2001/en20011015.pdf - Communications Market Act (393/2003), http://www.finlex.fi/en/laki/kaannokset/2003/en20030393.pdf <p><i>Other relevant (regulatory) acts:</i></p> <ul style="list-style-type: none"> -Act on the Exercise of Freedom of Expression in Mass Media (460/2003), http://www.finlex.fi/en/laki/kaannokset/2003/en20030460.pdf

A. Content distribution rules

<p>Must-carry</p>	<p>Communications Market Act, Section 134</p> <p>“Obligation to transmit programmes and services”</p> <p>A telecommunications operator providing a network service in a cable television network has an obligation to transmit the following in the network without charge:</p> <ol style="list-style-type: none"> 1) Public service television and radio programmes that are freely receivable in the municipality in which the network is located, as referred to in section 7(1) of the Act on the Finnish Broadcasting Company Ltd (1380/1993), within the limits of the capacity specified for the Finnish Broadcasting Company Ltd under the Radio Act (1015/2001). 2) Freely receivable ancillary and supplementary services related to these programmes. 3) Television and radio programmes that are provided in the municipality in which the network is located by virtue of a national programming licence under section 7(1) of the Act on Television and Radio Operations. 4) Material supplied for a particular item in a programme referred to in subsection 3, advertisements included in the programmes and other similar services forming part of the programmes. <p>In fulfilling its transmission obligation, a telecommunications operator need not make any improvements in network capacity that would require significant financial investments.</p> <p>However, notwithstanding the provisions of this section, a telecommunications operator has no transmission obligation if the cable television network capacity is for the operator’s use in its own television or radio operations or if it is necessary for this purpose in order to meet a reasonable future need of the operator.</p> <p>The programmes and associated services referred to in subsection 1 shall be provided to users free of charge. Notwithstanding the provisions of this subsection, a telecommunications operator providing a network service in a cable television network may require users to pay a reasonable fee for maintenance of the network.</p> <p>The programmes and services referred to in subsection 1 above shall be provided to users unmodified and simultaneously with the original broadcast.</p> <p>N/a</p>
<p>Must-offer</p>	<p>N/a</p>
<p>Must-list on EPGs (Electronic Programme Guides)²</p>	<p>N/a</p>

B. Advertising

<p>Advertising quota</p>	<p>PSB TV</p>	<p><i>The EU provisions apply.</i> Commercial advertising on PSB is not permitted.</p>
<p>Separation of advertisements and programmes – internal breaks</p>	<p>Commercial TV</p>	<p><i>The EU provisions apply.</i></p>

C. Content quota

<p>EU/national production quota</p>	<p>PSB & Commercial TV</p>	<p><i>The EU provisions apply.</i> Act on Television and Radio Operations (744/1998): --- Section 16.1 A television broadcaster shall reserve for European works a majority proportion of its annual transmission time, excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping. Section 17 A television broadcaster shall reserve for programmes produced by independent producers 15% of its transmission time, excluding the time</p>
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<p>Language quota</p>		<p>appointed to news, sports events, games, advertising, teletext services and teleshopping, or alternatively 15% of its programming budget. Half of the programmes included in the said share of the independent producers referred to above must have been produced within the past five years. (Note, national regulation in stricter than TWF-directive, in directive 10%).</p>
<p>PSB TV</p>		<p>Yleisradio Oy is the only broadcaster in Finland that has a public service obligation. Section 7, “Public service” of the Act on Yleisradio Oy (Finnish Broadcasting Company Ltd.) stipulates: “The company shall be responsible for the provision of comprehensive television and radio programming with the related additional and extra services for all citizens under equal conditions. These and other content services related to public service may be provided in all telecommunications networks. (492/2002) As special duties involving public service the company shall: Treat in its broadcasting Finnish-speaking and Swedish-speaking citizens on equal grounds and produce services in the Sami and Romany languages and in sign language as well as, where applicable, also for other language groups in the country. (635/2005)</p>

D. Content policy

Public decency rules	PSB & Commercial TV	<i>The EU provisions apply.</i>
1. Protection of minors	PSB & Commercial TV	<p><i>The EU provisions apply.</i></p> <p>Chapter 2 of the Finnish Constitution defines the basic rights and liberties. It states, among other things, that no one shall be treated in a manner violating human dignity.</p> <p>The provisions prohibiting indecency are included in the Finnish Penal Code. Offences against public order are regulated in a specific chapter which includes provisions on dissemination of depictions of obscenity, unlawful presentation or dissemination of pictorial recording to a minor and possession of obscene pictures of children.</p> <p>The Act on Television and Radio operations includes provisions concerning the protection of minors against programmes which may cause detriment to the development of children. (section 19)</p>
2. Harm, offence, crime, racism, violence and pornography	PSB & Commercial TV	

FRANCE

Audiovisual policy	<ul style="list-style-type: none"> ■ The Ministry of Culture and Communications ■ Direction for the Development of the Media (<i>Direction du développement des médias, DDM</i>) placed under the direct authority of the Prime Minister <p><i>Le Conseil supérieur de l'audiovisuel, CSA</i></p> <p><i>Other relevant regulatory bodies:</i> The French Telecommunications Regulator (ACERP)</p>
Regulator	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> ■ Freedom of Communication Law No. 86-1087 of 30 September 1986 (last amended in 2006) www.csa.fr/infos/textes/textes_detail.php?id=17638 (in English), www.csa.fr/infos/textes/textes_detail.php?id=33559 (in French) ■ Decree No. 92-280 of 27 March 1992 (last amended in 2003), pertaining to advertising, sponsoring and teleshopping on television www.csa.fr/infos/textes/textes_detail.php?id=5934 <p><i>Other relevant laws and regulatory acts:</i></p> <ul style="list-style-type: none"> ■ Law No. 2004-575 of 21 June 2004 for the confidence in the digital economy (<i>Loi pour la confiance dans l'économie numérique</i>) ■ The law pertaining to the use of the French language, of 4 August 1994 (articles number 2, 5, 12, 13, 14) www.csa.fr/infos/textes/textes_detail.php?id=11629 (in French) ■ Law No.2004-669 of 9 July 2004 pertaining to electronic communications and audiovisual communication services ■ The Postal and electronic communications code, last amended in 2005 (<i>Le Code des postes et des communications électroniques</i>)
Legislation	

A. Content distribution rules

Must-carry	<p>Must-carry obligations are imposed only on cable and satellite operators with a significant number of viewers who use their services as their main means of accessing free-to-air broadcasting services.</p> <p>Such cable and satellite operators in metropolitan France must distribute free of charge to their subscribers:</p> <ul style="list-style-type: none"> - All analogue terrestrial broadcasts of France 2, France 3, France 5, Arte. - TV 5. - Analogue terrestrial broadcasts of the <i>Réseau France outre-mer</i> (state-owned Network for overseas administrative divisions) aimed specifically at the French metropolitan public. - All broadcasts and interactive services of the Parliamentary Channel (<i>La Chaîne parlementaire</i>) <p>Cable operators must also carry local channels and local cable channels</p> <p>All national TV stations must offer their programmes free of charge to the <i>Réseau France outre-mer</i> (state-owned Network for overseas administrative divisions).</p> <p>The <i>Réseau France outre-mer</i> must offer their programmes free of charge to the state-owned companies <i>France Télévisions</i> (administrator of France 2, France 3, and France 5) and <i>Radio France</i>.</p>
Must-list on EPGs (Electronic Programme Guides)	N/a.

B. Advertising

Advertising quota	PSB TV ^{1, 2, 3}	<p><i>The EU quota provisions apply.</i></p> <p>Free-to-air terrestrial broadcasts of national TV stations with an audience exceeding 2 million are allowed a maximum of 6 minutes of advertising per hour averaged during the course of 1 day and 12 minutes per clock hour.</p> <p>Cable, satellite, and free-to-air terrestrial broadcasts with an audience not exceeding 2 million are allowed a maximum of 9 minutes of advertising per transmission hour averaged during the course of 1 day and</p>
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		<p>12 minutes per clock hour.</p> <p>Broadcasting services operated by local and community associations may be allowed higher advertising quotas than those mentioned above.^{3,4}</p> <p>The Parliamentary Channel (<i>La Chaîne parlementaire</i>) may not carry any advertisements.¹</p> <p>The Arte channel may not carry any advertisements.¹</p> <p>For each of the companies France 2 and France 3, the time devoted to the broadcasting of advertising spots may not exceed 8 minutes per 60-minute period. For these companies, the board of directors of <i>France Télévision</i> shall determine the time limitations applicable to messages to promote programmes.¹</p> <p>The broadcasting of a film may not be interrupted more than once for advertising, and the break must not exceed 6 minutes.²</p> <p>Free-to-air terrestrial broadcasts of national TV stations with an audience exceeding 2 million are allowed a maximum of 6 minutes of advertising per hour averaged during the course of one day and 12 minutes per clock hour.</p> <p>Cable, satellite, and free-to-air terrestrial broadcasts with an audience not exceeding two million are allowed a maximum of 9 minutes of advertising per transmission hour averaged during the course of one day and 12 minutes per clock hour.</p> <p>Broadcasting services operated by local and community associations may be allowed higher advertising quotas than those mentioned above.^{3,4}</p> <p>The broadcasting of a film may not be interrupted more than once for advertising, and the break must not exceed 6 minutes.²</p> <p><i>PIN-protected channels</i> may not broadcast advertisements except during their not-encrypted window. Not-encrypted broadcasts may not exceed 6 hours a day. Maximum 10% of this period can be dedicated to advertising. Advertising time during each clock hour may not exceed 20% of transmission time.³</p>
<p>Separation of advertisements and programmes – internal breaks</p>	<p>PSB & Commercial TV¹</p>	<p>Commercials shall be inserted between programmes.</p> <p>Commercials can also be inserted during broadcasts in such a way that they do not damage the integrity, nature and value of the broadcast, taking into account any natural breaks, the duration of the broadcasts, and any copyright regulations.</p>

		<p>- In the case of programmes divided into self-contained parts, sports programmes, news reports and entertainment programmes that are similarly structured to include intervals, commercial breaks can be inserted only between the self-contained parts or intervals.</p> <p>- Generally, when programmes are interrupted by commercials, at least 20 minutes shall elapse between breaks in the programme.</p> <p>The broadcasting of a film or audio-visual work by an audio-visual communication service may not be interrupted more than once for advertising, save for an exemption granted by the <i>Conseil supérieur de l'audiovisuel</i>. The advertising spot must be clearly identifiable as such.</p> <p>The advertising break may only contain advertising spots, to the exclusion of any other document, data or message of any kind, in particular trailers, and self-promotion tapes.</p> <p>Subtitling of films with advertising and any advertising-related interruption of films broadcast in the context of film society (<i>ciné-club</i>) programmes are prohibited.</p> <p>Advertisements may not interrupt:</p> <ul style="list-style-type: none"> - The broadcasting of a film by France 2, France 3, France 5, and the <i>Réseau France outre-mer</i> as well as by pay-per-view and subscription television services. - Broadcasts of the Parliamentary Channel. - Religious broadcasts. - Children's programmes and news and current affairs programmes lasting less than 30 minutes.
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C. Content quota

<p>1. EU/national production quota</p>	<p>PSB & Commercial¹</p>	<p>EU quotas apply modified as follows: TV broadcasting during prime time should include:</p> <ul style="list-style-type: none"> - At least 60% European films and audio-visual works. - At least 40% original French films and audiovisual works. <p>The <i>Conseil supérieur de l'audiovisuel</i> may substitute for prime time significant viewing or listening time which it shall set each year for each service in relation, in particular, to the features of its audience and its programming as well as the importance and nature of its contribution to the production.¹</p>
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		<p>For television services broadcast via cable and satellite:</p> <ul style="list-style-type: none"> - The proportions of European and original French films broadcast, in particular, at prime time, must be at least equal to 60% and 40% respectively. - The proportions of European and original French audiovisual works may be lower, in particular in relation to the extent of the service producer's investment in the production of new independent French works, without, however, the proportion of European works being less than 50%.
<p>Language quota</p>	<p>PSB & Commercial TV¹</p>	<p>The French language is compulsory for all programmes and advertisements by television broadcasting institutions and services regardless of the method of broadcasting or distribution thereof.</p> <p>Exceptions are:</p> <ul style="list-style-type: none"> - Films and audio-visual works in the original version. - Musical works, of which all or part of the text is written in a foreign language. - Programmes, parts of programmes or advertising included in the latter which are intended to be broadcast entirely in the foreign language. - Programmes which have as their purpose to learn a foreign language. - Live transmissions of cultural ceremonies. <p>When the programmes or the advertisements included in musical works, of which all or part of the text is written in a foreign language are accompanied by translations in foreign languages, the presentation in the French language must be as legible, audible or intelligible as the presentation in the foreign language.¹</p>

D. Content policy

Public decency rules		<i>The EU provisions apply.</i>
1. Protection of minors	PSB & Commercial TV¹	No broadcasting service may distribute programmes that may harm the physical, mental or moral development of minors, unless it is ensured, by the choice of broadcasting time or by any relevant technical process, that minors are not normally liable to see or hear such programmes. When television services distribute such programmes, a warning must be issued to the public prior to the distribution thereof and a visual symbol identifying such programmes during the distribution thereof. ¹
	PSB & Commercial TV¹	The watershed for adult (over-16) programming on free-to-air TV stations is 10.30 p.m.
2. Harm, offence, crime, racism, violence and pornography	PSB & Commercial TV¹	Programmes of the television broadcasting services may not contain any incitement to hatred or violence on the grounds of race, sex, morality, religion or nationality. ¹

REFERENCES

1. Freedom of Communication Law No. 86-1087 of 30 September 1986 (last amended in 2005)
www.csa.fr/infos/textes/textes_detail.php?id=17638 (in English)
www.csa.fr/infos/textes/textes_detail.php?id=33559 (in French)
2. Public Health Code as amended by the Law No. 2004-806 of 9 August 2004
www.csa.fr/infos/textes/textes_detail.php?id=33559 (in French)
3. Decree No. 92-280 of 27 March 1992 (last amended in 2003), pertaining to advertising, sponsoring and teleshopping
www.csa.fr/infos/textes/textes_detail.php?id=5934
4. Local and community associations are allowed to organise and offer broadcasting services similar to those of cable operators in geographic areas not covered by conventional free-to-air, cable or satellite broadcasting services.

GERMANY

Audiovisual policy	<ul style="list-style-type: none"> ■ In Germany, media matters are legislated and regulated at <i>Länder</i> (regional) level rather than at national level. ■ The Federal Government represents media matters at international level. ■ PSBs are primarily self-regulated.¹ ■ The ALM (<i>Arbeitsgemeinschaft der Landesmedienanstalten</i>) is the umbrella organisation of the 15 State Regulatory Authorities for Broadcasting in Germany. ■ The German Advertising Council (<i>Deutscher Werberat</i>)
Legislation	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> ■ Eighth Agreement Amending the Interstate Broadcasting Agreement (<i>8 Rundfunkänderungsstaatsvertrag</i>) ratified in 2005 ■ Interstate Treaty on the Protection of Human Dignity and the Protection of Youth from Harmful Content in the Media (<i>Jugendmedienschutz-Staatsvertrag - JMStV</i>) ■ Information and Communication Services Act (<i>Informations- und Kommunikationsdienste-Gesetz - IuKDG</i>) <p><i>Other relevant (regulatory) acts:</i></p> <p>Länder media acts</p>

A. Content distribution rules

Must-carry²	Cable and DVB-T	<p>Extensive must-carry provisions with regard to the cable operators are made at regional (Länder) level. For the analogue cable operators the provisions are more detailed than for the digital cable operators.</p> <p>Analogue and digital terrestrial channels that are broadcast free-to-air enjoy must-carry status. These channels are both public (national, regional, local) channels, and some commercial channels.</p> <p>The regional regulators can impose must-carry obligations on digital cable networks up to a maximum bandwidth of the equivalent of three analogue channels. Channels with a must-carry status retain this status on DVB-T.</p> <p>In the near future, a new standard must-carry rule with respect to the digital cable network will apply to all nationwide private broadcasters with regional windows.³</p>
Must-list on EPGs (Electronic Programme Guides)⁴		Public service channels should be given appropriate prominence.

B. Advertising

Advertising quota	PSB TV^{5,8}	<p><i>The EU provisions apply.</i></p> <p>Limited advertising on TV PSB is permitted. Revenues from advertising account for about 6% of the total funding.</p> <p>The total air time for TV commercials cannot be more than 20 minutes per workday, averaged annually.</p> <p>Public broadcasters may only show advertisements until 8 p.m. On Sundays and public holidays advertisements may not be broadcast.</p>
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	Commercial TV⁶	The proportion of transmission time allocated to advertising, teleshopping spots and other forms of advertising excluding teleshopping windows will not exceed 20% of the daily transmission time. The transmission time for advertising spots will not exceed 15% of the daily transmission time. The proportion of advertising and teleshopping spots within an hour shall not exceed 20%.
Separation of advertisements and programmes – internal breaks¹	PSB & Commercial TV	<i>The EU provisions apply.</i> Generally, programming cannot be interrupted by advertisements. Programmes for children may not be interrupted by advertising.

C. Content quota

EU/national production quota⁶	PSB & Commercial TV⁶	Where practicable, television broadcasters shall ensure that European productions account for the majority of the qualified programmes as transmitted by each broadcaster, of which a considerable proportion must be original, co-production or independent works. Qualified programmes refer to: feature films, TV films, series, documentaries and similar programmes. No further specifications of quotas.
Language quota	PSB & Commercial TV	N/a.

D. Content policy

<p>Public decency rules</p>		<p><i>All standards apply equally to television and radio, public and commercial broadcasters, unless otherwise specified.</i></p> <p><i>The EU provisions apply.</i></p>
<p>1. Protection of minors⁷</p>	<p>PSB & Commercial TV</p>	<p>Material that might seriously impair the physical, mental or moral development of minors must not be broadcast.</p> <p>The <i>watershed</i> is set between 11 p.m. and 6 a.m.</p> <p>Detailed self-regulatory measures to be observed by all broadcasters are laid down in the <i>Richtlinien zur Anwendung der Priifordnung der Freiwilligen Selbstkontrolle Fernsehen</i>, March 2005. (See also the Protection of Young Persons Act of 2002, last amended in 2004.)</p>
<p>2 Harm, offence, crime, racism, violence and pornography</p>	<p>PSB & Commercial TV</p>	<p><i>The EU provisions apply.</i></p> <p>Programmes containing pornographic material, gratuitous violence, etc. must not be broadcast.</p>

REFERENCES

1. ARD, <http://www.ard.de/-/id=161952/property=download/kvilfq/index.pdf>
2. Assessment of the Member States measures aimed at fulfilling certain general interest objectives linked to broadcasting, imposed on providers of electronic communications networks and services in the context of the new regulatory framework. Eurostrategies, March, 2003.
3. www.selfregulation.info/iapccoda/0405-broadcast-report-dl-apdx02.htm
4. The option whether access rules comparable to those for basic navigators should also be provided for the EPGs of third parties that contain more than one channel or package is also under consideration by regulators.
5. ARD, <http://www.ard.de/-/id=161952/property=download/kvilfq/index.pdf>
6. europa.eu.int/comm/avpolicy/stat/bird_bird/pub_germany.pdf
7. Richtlinien zur Anwendung der Prüfordnung der Freiwilligen Selbstkontrolle Fernsehen, March 2005, http://www.fsf.de/fsf2/ueber_bild/download/FSF_Richtlinien_gesamt.pdf
8. The ARD public broadcasting corporations have established their own independent companies to acquire and carry out advertising contracts. These companies are all members of the 'ARD-Werbung', an association of nine companies for public broadcast advertising.

ITALY

<p>Audiovisual policy</p> <p>Regulator</p>	<p>The Ministry of Communications, www.comunicazioni.it/en/index.php</p> <p>The Communications Regulatory Authority (Agcom), www.agcom.it/eng/e_intro/e_intro_.htm</p> <p><i>Other relevant regulatory bodies:</i></p> <ul style="list-style-type: none"> ■ The Parliamentary Broadcasting Services Watchdog Committee ■ The Authority for Competition and the Market
<p>Legislation</p>	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> ■ Legislative Decree No. 177 of 31 July 2005 (The Broadcasting Consolidation Act), www.agcom.it/L_naz/dl177_05.htm (Italian) www.comunicazioni.it/en/index.php?IdNews=33 (English) ■ Law No. 103 of 14 February 1975, last amended in 2000 (new rules regarding TV & radio broadcasting) www.segretariatosociale.rai.it/regolamenti/programmi_accesso/legge-103.html ■ Law No. 112 of 3 May 2004 Regulations and principles governing the set-up of the broadcasting system and the RAI-<i>Radiotelevisione italiana S.p.a.</i>, authorizing the government to issue a consolidated broadcasting act. (Legge Gasparri) www.comunicazioni.it/it/index.php?IdPag=836 (Italian), www.comunicazioni.it/en/index.php?IdNews=18 (English) <p><i>Other relevant laws and regulatory acts:</i></p> <ul style="list-style-type: none"> ■ Legislative Decree No. 259 of 1 August 2003 (Cable and satellite network operators) <p><i>Relevant self- and co-regulatory acts:</i></p> <ul style="list-style-type: none"> ■ Self-Regulatory TV and Children Code of Conduct approved on 29 November 2002, www.comunicazioni.it/it/index.php?MnI=18&Mn2=98

A. Content distribution rules

Must-carry Must-offer		N/a.
Must-list on EPGs (Electronic Programme Guides)		N/a.

B. Advertising

Advertising quota¹	<p>PSB TV¹</p> <p>Commercial TV¹</p>	<p><i>The EU provisions apply.</i></p> <p>Maximum 4% of weekly broadcasting time and 12% of each broadcasting hour. Any surplus time, which in any event shall not exceed 2% in an hour, shall be compensated for in the preceding or subsequent hour.</p> <p>Maximum 15% of daily broadcasting time and 18% of each broadcasting hour. Any surplus advertising time, which in any event shall not exceed 2% in an hour, shall be compensated for in the preceding or subsequent hour. An identical limit is set for broadcasters authorised to transmit simultaneously in at least 12 service areas, with reference to simultaneous broadcasting schedules.</p> <p>Broadcasting of television advertisements by local television broadcasters and content providers shall not exceed 25% of each broadcasting hour and day. Any surplus advertising time, which in any event shall not exceed 2% in an hour, shall be compensated for in the preceding or subsequent hour. Local broadcasters and content providers can devote no more than of 40% of daily broadcasting time to advertising if this includes other forms of advertising, as under paragraph 6, such as offers made directly to the public, without prejudice to the limits on hourly and daily advertising volumes for commercial breaks, as under paragraph 5. This 40% limit does not apply to local broadcasters and content providers that devote 80% of transmission time to teleshopping.</p>
Separation of advertisements and programmes – internal breaks	PSB & Commercial TV¹	<p>Advertisements may not interrupt:</p> <ul style="list-style-type: none"> - Children's animation programmes. - Religious broadcasts. - News and current affairs programmes, documentaries, religious programmes and children's

		<p>programmes lasting less than 30 minutes.</p> <p>Commercials shall be inserted between programmes.</p> <p>Commercials can also be inserted during broadcasts in such a way that they do not damage the integrity, nature and value of the broadcast, taking into account any natural breaks, the duration of the broadcasts, and any copyrights regulations.</p> <ul style="list-style-type: none"> - In the case of programmes divided into self-contained parts, sports programmes, news reports and entertainment programmes that are similarly structured to include intervals, commercial breaks can be inserted only between the self-contained parts or intervals. - In the case of theatrical works, opera or music broadcasts, commercial breaks are allowed during normal interval time. In works lasting over 45 minutes, breaks are allowed every act or part. A further break is allowed if the scheduled duration of the work is at least 20 minutes longer than two or more acts or parts lasting 45 minutes each. - Audiovisual works, including full-length films and television films, except TV serials and series, entertainment programmes and documentaries, lasting more than 45 minutes, can be interrupted once every 45 minutes. Another break is authorised if the scheduled duration of the work is at least 20 minutes longer than two or more parts lasting 45 minutes each. - Generally, when programmes are interrupted by commercials, at least 20 minutes shall elapse between breaks in the programme. <p>As an exception to the provisions laid down in European Council Directive 89/552/EEC, national broadcasts of the local television broadcasters' transmission of theatrical works, films, opera and concerts (except during interconnections) are allowed to insert two commercial breaks in each act or part of a work, independently of the duration of the work, in addition to those inserted into the natural intervals. In works lasting between 90 and 109 minutes, two commercial breaks are also allowed for each act or part. In works scheduled to last 110 or more, three commercial breaks are allowed plus an additional break every 45 minutes. (Scheduled programme time includes the opening theme music and the closing theme music in addition to the commercial breaks.)</p>
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C. Content quota

<p>EU/national production quota</p>	<p>PSB & Commercial TV¹</p>	<p>The EU quotas apply amended as follows:</p> <ul style="list-style-type: none"> - A minimum of 50% of the recent European production quota must be transmitted within five years of production. - The general public service broadcasting licensee (TV and radio) is to devote a quota of no less than 20% to independent productions. - The general public service broadcasting licensee shall devote broadcasting time on satellite networks to European audiovisual works and films. <p><i>Satellite television broadcasters</i> subject to Italian law and authorised to broadcast in Italy and abroad are under the obligation to promote and publicise Italian and European Union audiovisual works, according to the procedures established by the Communications Regulatory Authority.</p>
<p>Language quota</p>	<p>PSB TV^{1,2}</p>	<p>A minimum of 5% of the total TV transmission time is reserved for broadcasts of religious, political, cultural, and minority language groups. Broadcasts in minority languages include:</p> <ul style="list-style-type: none"> - Broadcasts in German and Ladin in the autonomous province of Bolzano. - Latin in the autonomous province of Trento. - French in the autonomous region of Valle d'Aosta. - Slovenian in the autonomous region of Friuli Venezia Giulia. <p>The number of hours allocated for each category is set every three years in a ruling issued by the Italian Broadcasting Authority. Entertainment programmes for children do not count towards these hours.</p>

D. Content policy

<p>Public decency rules</p> <p>1. Protection of minors</p>	<p>PSB & Commercial TV^{1,3}</p>	<p><i>The EU provisions apply.</i></p> <p>The <i>watershed</i> for adult programming is set at 10.30 p.m. (till 7 a.m.) Before the watershed:</p> <ol style="list-style-type: none"> 1. Films declared unsuitable for children under 18 may not be broadcast. 2. Films declared unsuitable for children under 14 shall not be broadcast either complete or in part between 7 a.m. and 10.30 p.m. 3. Television broadcasters must apply specific measures for the protection of minors in programmes broadcast between 4 p.m. and 7 p.m., and in children's programmes, with particular reference to commercials, promotions and any other form of commercial announcement and advertising. Specific regulations shall be observed in sports commentaries, especially those concerning football, to promote sporting values, such as loyalty and respect for opponents, among young people, and in such as way that sporting events are not associated with violence. 4. Between 7 p.m. and 10.30 p.m., children are likely to be watching TV in the presence of an adult. This should be taken into consideration when assigning warning signals to programmes that might be unsuitable for children. 5. The use of children under the age of 14 in TV advertising and commercials is banned. 6. Television advertising of alcohol may not be aimed specifically at minors or, in particular, depict minors consuming these beverages.
<p>2. Harm, offence, crime, racism, violence and pornography</p>	<p>PSB & Commercial TV¹</p>	<p>Prohibited broadcasts are those that:</p> <ul style="list-style-type: none"> - Contain ciphered or subliminal messages - Incite to hatred, however motivated - Lead to intolerant behaviour based on differences of race, sex, religion or nationality, - (bearing in mind transmission time) which can seriously harm the physical, mental or moral development of children, especially programmes that contain pornography or scenes of gratuitous violence. - Include gratuitous, prolonged, and brutal scenes of violence or pornography. <p>Special norms apply to conditional access broadcasts, which require the adoption of specific and selective control systems.¹</p>

REFERENCES

1. Legislative Decree No. 177 of 31 July 2005 (The Broadcasting Consolidation Act), www.agcom.it/L_naz/dl177_05.htm (in Italian), www.comunicazioni.it/en/index.php?IdNews=33 (in English).
2. Law No. 103 of 14 February 1975: www.segretariatosociale.rai.it/regolamenti/programmi_accesso/legge-103.html
3. Self-Regulatory TV and Children Code of Conduct approved on 29 November 2002: www.comunicazioni.it/it/index.php?Mn1=18&Mn2=98
4. Commercials that are part of initiatives promoted by institutions, authorities, trade associations, publishers, and booksellers, that are aimed at *promoting books and reading*, and that are broadcast free of charge or at reduced rates by public and private radio and television content providers and broadcasters are excluded from the advertising volume limits. Broadcasting Consolidation Act, 2005, www.comunicazioni.it/en/index.php?IdNews=33.

JAPAN

<p>Audiovisual policy</p>	<p>Ministry of Internal Affairs and Communications</p>
<p>Regulators</p>	<p>The Radio Regulatory Council</p>
<p>Legislation</p>	<ul style="list-style-type: none"> ■ Broadcast Law No.132 of May 2, 1950, as amended last by Law No. 58 of 28 May 1998 www.soumu.go.jp/joho_tsusin/eng/laws_dt04.html (in English) ■ Radio Law No. 131 of 2 May 1950, as amended last by Law No. 21 of 2005 (Law for Amending the Income Tax Law, Etc.) www.soumu.go.jp/joho_tsusin/eng/Resources/laws/radiolaw2003/RL-index.html ■ Cable Television Broadcast Law No.114 of 1 July 1972, as amended last by law No. 59 of May 28, 1999 www.soumu.go.jp/joho_tsusin/eng/laws_dt04.html (in English) ■ Law Concerning Broadcast on Telecommunications Services No.85 of 29 June 2001 www.soumu.go.jp/joho_tsusin/eng/laws_dt04.html (in English) <p><i>Relevant co-regulatory acts:</i> The co-regulatory standards of the National Association of Commercial Broadcasters in Japan. http://www.nab.or.jp/html/english/englishethics.html</p>

A. Content distribution rules

Must-carry²		Within a zone designated by the Minister of Internal Affairs and Communications as a zone where the receiving interference of a television broadcasting occurs to a great extent or such interference is feared to develop, the cable television broadcaster who is also the licensee for cable television broadcasting facilities in the designated zone should receive the television broadcasting or television multiplex broadcasting of all broadcasters (who broadcast in the area) and retransmit all the broadcasting programmes thereof intact and simultaneously. [Article 13 (1)].
Must-offer		N/a.
Must-list on EPGs (Electronic Programme Guides)		N/a.

B. Advertising

Advertising quota	PSB TV¹	NHK, the sole public broadcasting corporation in Japan, is a not-for-profit organization and may not broadcast advertisements on any of its channels. ¹
	Commercial TV³	The advertising quota is not set by law, but by co-regulatory standards set by the National Association of Commercial Broadcasters in Japan (chapter 18).
Separation of advertisements and programmes – internal breaks	Commercial TV¹	Advertisements should be clearly identified as such. ¹ Advertisements may not interrupt educational programmes intended for schools. ¹

C. Content quota

National and original production quota	PSB & Commercial TV	N/a.
Language quota	PSB & Commercial	N/a.

D. Content policy

Public decency rules	PSB¹	Broadcasters must establish their standard for the compilation of broadcast programs (self-regulation) according to the type of the broadcast programs and to the type of viewers these programs are designed for, and shall compile the broadcast programs in accordance with such standards.
1. Protection of minors	Commercial TV³	Co-regulatory measures apply as laid down by the National Association of Commercial Broadcasters in Japan. Measures require <i>i.e.</i> that special attention be paid to animation programmes, proper use of language, proper behaviour of public figures featured in children’s programmes, etc.
2. Harm, offence, crime, racism, violence and pornography	PSB & TV	Broadcasters must establish their standard for the compilation of broadcast programs (self-regulation) according to the type of the broadcast programs and to the type of viewers these programs are designed for, and shall compile the broadcast programs in accordance with such standards.
	Commercial TV³	Co-regulatory measures apply as laid down by the National Association of Commercial Broadcasters in Japan. More prominent among those measures: ‘discriminatory treatment shall not be given on the basis of race, sex, occupation or belief’.

REFERENCES

1. Broadcast Law No.132 of May 2, 1950, as amended last by Law No. 58 of 28 May 1998:
www.soumu.go.jp/joho_tsusin/eng/laws_dt04.html (in English)
2. Cable Television Broadcast Law No.114 of 1 July 1972, as amended last by law No. 59 of 28 May, 1999:
www.soumu.go.jp/joho_tsusin/eng/laws_dt04.html (in English)
3. <http://www.nab.or.jp/htm/english/englishethics.html>

NORWAY

<p>Audiovisual policy</p> <p>Regulators</p>	<p>Ministry of Culture and Church Affairs, the Department of Media Policy and Copyright http://odin.dep.no/kkd/english/topics/media/bn.html</p> <ul style="list-style-type: none"> ■ The Norwegian Media ■ The government-appointed Broadcasting Council and the Director General of Broadcasting (for national public service broadcasting companies) ■ The Norwegian Post and Telecommunications Authority (NPT) (regulator for broadcasting networks and frequencies, according to the Act on Electronic Communications) <p><i>Other relevant regulatory bodies:</i></p> <p>The Consumer Ombudsman (supervisory body for advertising)</p>
<p>Legislation</p>	<p><i>Relevant national legal framework:</i></p> <ul style="list-style-type: none"> ■ The Norwegian Broadcasting Act (No. 127 of 4 December 1992, last amended in 2005): http://odin.dep.no/kkd/english/topics/media/018041-200005/dok-bn.html ■ The Norwegian Media Ownership Act ■ The Norwegian Broadcasting Regulations (No. 153 of 28 February 1997, last amended in 2005): http://odin.dep.no/kkd/english/doc/legislation/acts/018001-990111/dok-bn.html <p><i>Other relevant (regulatory) acts:</i></p> <ul style="list-style-type: none"> ■ Regulations on Electronic Communications Networks and Services (Ecom Regulations) http://www.npt.no/iKnowBase/FileServer/ekomforskrift_eng.pdf?documentID=30917 ■ Electronic Communications Act and the Regulations on Electronic Communications Networks and Services

A. Content distribution rules

Must-carry ¹		<p>Cable owners have a duty to retransmit the television broadcasts of:</p> <ul style="list-style-type: none"> - The Norwegian Broadcasting Corporation. - TV 2. - Terrestrial local public television services licensed under section 7-3, third paragraph, first sentence of the Norwegian Broadcasting Regulations. <p>Each broadcast to which the retransmission duty applies shall take up one channel in the cable network. Programmes to which the retransmission duty applies shall be transmitted via channels available to all subscribers to the network.</p> <p>Owners of cable networks with little channel capacity may apply to the Norwegian Media Authority for exemption from the retransmission duty under this section.</p>
Must-offer		N/a
Must-list on EPGs (Electronic Programme Guides) ²		N/a.

B. Advertising

Advertising quota	<p>PSB TV^{1, 3}</p> <p>Commercial TV¹</p>	<p><i>The EU provisions apply.</i></p> <p>Commercial advertising on any PSB is not permitted.</p> <p>Advertisements shall in aggregate not exceed 15% of the broadcaster's daily transmission time and 20% per hour of the clock.</p> <p>Self-advertising by broadcasting stations does not count towards the advertising quota.</p>
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		<p>No advertisements may be broadcast outside the advertising blocks.</p> <p>The broadcasting of advertisements on Good Friday, Easter Sunday, Whit Sunday and Christmas Day is prohibited.</p>
<p>Separation of advertisements and programmes – internal breaks</p>	<p>Commercial TV¹</p>	<p>Broadcasts of religious services may not be interrupted by advertisements.</p> <p>Interruption shall be inserted in such a way that the value and integrity of the programme are not prejudiced. In this assessment particular importance shall be given to natural breaks in and the duration and nature of the programme.</p> <p>If a feature film or a film made for television is interrupted, advertisements may be broadcast during one of the interruptions if the programme lasts at least 20 minutes. Fiction-based series and programmes may be interrupted once by advertising provided the interruption lasts no more than 60 seconds. If fiction-based series or programmes are interrupted by advertising, the programme may not in addition be interrupted by programme trailers or other announcements from the broadcaster.</p> <p>In broadcasts of theatre performances and concerts, advertisements may only be broadcast during natural breaks in the actual performance.</p> <p>In sports broadcasts and other programmes consisting of autonomous parts or where natural breaks occur, advertisements may be broadcast between the parts or during the natural breaks in the actual performance or event, provided that each part of the programme lasts at least 20 minutes.</p> <p>Other programmes may be interrupted by advertisements if the programme lasts 45 minutes or more, and each part of the programme lasts at least 20 minutes.</p>

C. Content quota

EU/national production quota	PSB & Commercial TV¹ Commercial TV	<i>The EU provisions apply.</i> TV 2 (commercial TV broadcaster) was granted a concession on condition that it has at least one newscast a day. Furthermore, TV2 is required to have a certain public service profile, including that at least half of the programming is in the Norwegian language. ⁶
Language quota	PSB TV⁴	The official languages used by the Norwegian public broadcaster (NRK) are Norwegian and Sámi. Within the NRK (the Norwegian public service broadcasting corporation), <i>Sámi Radio</i> broadcasts TV and radio programmes in the Sámi language. Most of Sámi Radio's radio and TV broadcasts are in North Sámi, but there are also permanent broadcasts in Lule Sámi and South Sámi. Sámi Radio broadcasts weekly TV programmes for children (Mánáid-TV), and five to ten TV documentaries and cultural programmes a year.

D. Content policy

Public decency rules 1. Protection of minors	PSB & Commercial TV¹	<i>The EU provisions apply.</i> The <i>watershed</i> for adult programming is set at 9 p.m. and does not apply to news and current affairs programmes. The broadcasting of television programmes whose content may seriously impair the physical, mental or moral development of minors is prohibited. In the assessment of whether programmes are likely to cause serious harm to minors, particular emphasis shall be given to any pornographic content or gratuitous violence. Not encoded programmes that may be harmful to minors should be preceded by a verbal acoustic warning or should be identified by the presence of a visual symbol throughout their duration.
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	Commercial TV¹	<p>No advertisements specifically directed at children may be broadcast.</p> <p>No advertisements may be broadcast ten minutes immediately before or after a children's programme.</p> <p>No advertisements may be broadcast for products or services of special interest to children and young people that involve the participation of persons or figures who in the preceding 12 months have featured regularly or over a long period of time as important elements in programmes for children or young people on a radio or television channel received in Norway.</p>
<p>2. Harm, offence, crime, racism, violence and pornography</p>	<p>PSB & Commercial TV⁴</p>	<p><i>The EU provisions apply.</i></p> <p>Prohibited are:</p> <ul style="list-style-type: none"> - Utterances or communications which threaten or subject an individual or group to contempt on the grounds of religion, creed, race, colour or national or ethnic origin, or because of their sexual status or inclination. - Defamation (including libel). Even if a statement is true, it may be punishable if the court finds that it was made without respectable intent or was otherwise improper. - The intrusion of privacy. - Insults to government institutions or officials. - Blasphemy. - Pornography.

REFERENCES

1. The Norwegian Broadcasting Regulations No. 153 of 28 February 1997, last amended in 2005: <http://odin.dep.no/kkd/english/doc/legislation/acts/018001-990111/dok-bn.html>
2. The Norwegian Post and Telecommunications Authority can order providers of other access control functions for digital radio and television to use open software interfaces in accordance with relevant standards or specifications, which are used by content and service providers to be able to provide digital radio and television services, including Application Programme Interface (API) and Electronic Programme Guide (EPG). Ecom Regulations: http://www.npt.no/iKnowBase/FileServer/ekomforskrift_eng.pdf?documentID=30917
3. NRK, Ethical Programme Guidelines: www.nrk.no/informasjon/about_the_nrk/234986.html
4. The Norwegian General Civil Penal Code article applying to the press, as included in the Norwegian Broadcasting Regulations (No. 153 of 28 February 1997, last amended in 2005): <http://odin.dep.no/kkd/english/doc/legislation/acts/018001-990111/dok-bn.html>
5. <http://odin.dep.no/kkd/english/doc/handbooks/018005-990114/dok-bn.html>

PORTUGAL

<p>Audiovisual policy</p>	<ul style="list-style-type: none"> ■ The Minister for Parliamentary Affairs (<i>Ministro dos Assuntos Parlamentares</i>, member of the government with responsibility for the media) ■ The Media Institute, ICS (<i>Instituto Da Comunicação Social</i>), placed under the direct authority of the Minister for Parliamentary Affairs, www.ics.pt ■ The Minister of Culture (<i>Ministra da Cultura</i>, member of the Government responsible for culture), www.min-cultura.pt/index.html ■ The Institute for Cinema, Audiovisual and Multimedia, ICAM (<i>Instituto do Cinema, Audiovisual e Multimédia</i>, placed under the direct authority of the Minister of Culture), www.icam.pt
<p>Regulators</p>	<ul style="list-style-type: none"> ■ The Regulatory Authority for the Media, ERC (<i>Entidade Reguladora para a Comunicação Social</i>, set up November 2005), which, on 17 February 2006, replaced the High Authority for the Mass Media, AACCS (<i>Alta Autoridade para a Comunicação Social</i>) as the independent administrative body accountable to the Assembly of the Republic (Portuguese Parliament) responsible for ensuring the provisions of Article 39 (Regulation of the media) of the Portuguese Constitution. ERC also took over a number of regulatory tasks formerly held by the Media Institute, ICS (<i>Instituto Da Comunicação Social</i>), www.erc.pt <p><i>Other relevant regulatory bodies:</i></p> <ul style="list-style-type: none"> ■ The Portuguese Communications Institute-The Portuguese National Communications Authority, ICP-Autoridade Nacional de Comunicações (ICP-ANACOM), the regulatory authority for communications ■ The Consumer Institute (advertising regulator), www.ic.pt/pls/icnew/homepage ■ The Competition Authority

Legislation**Relevant national legal framework:**

- **Law no. 53 of 8 November 2005** Creating the Regulatory Authority for the Media (ERC - *Entidade Reguladora para a Comunicação Social*) www.ics.pt/verfs.php?fscod=837&lang=pt (Portuguese)
- **Television Law** (*Lei Da Televisão*) No. 32 of 22 August 2003, last amended in 2005, www.icp.pt/template20.jsp?categoryId=54198&contentId=238343 (English)
- **Radio Law** (*Lei da Rádio*), www.ics.pt/index.php?op=cont&lang=en&Pid=79&area=354 (in English)
- **Law no. 33** of 22 August 2003 Approving the restructuring of the State entrepreneurial sector in the audiovisual domain - First amendment of Decree-Law No. 2/94, of 10 January, Law No. 4/2001, of 23 February, and Law No. 18-A/2002, of 18 July: www.icp.pt/template20.jsp?categoryId=131999&contentId=238383 (in English)
- www.ics.pt/verfs.php?fscod=565&lang=pt (in Portuguese)
- **Law no. 30** of 22 August 2003 Approving the model for the financing of the public service of radio and television broadcasting (last amended 3 October 2005): www.ics.pt/index.php?op=cont&lang=en&Pid=79&area=358 (English)
- **Television and Radio in the Autonomous Regions Law** No. 31 of 14 August 1996
- **Decree-Law no. 84** of 28 April 2005 establishes the conditions for the cession of rights provided for in paragraph 5 of article 28 of Law no. 32/2003, of 22 August, compelling holders of exclusive rights for the transmission of any events to cede the respective signal to operators who carry out international broadcasts, www.icp.pt/template20.jsp?categoryId=54198&contentId=278905

Other relevant laws:

- **Electronic Communications Law** No. 5 of 10 February 2004: www.icp.pt/template20.jsp?categoryId=131961&contentId=238330
- **Advertising Code** (*Código Da Publicidade*), Decree-Law No. 330, 23 October 1990: (last amended in 2004) www.rtp.pt/wportal/grupo/legislacao.php (in Portuguese)
- www.apan.pt/legis1.php?ID=14 (in Portuguese)

Co- and self-regulatory acts:

- **Co-regulatory protocol** between the PSB and commercial stations of 21 August 2003, PROTOCOLO RTP / SIC / TVI (*Protocolo assinado pelos três operadores*), www.ics.pt/verfs.php?fscod=284&lang=pt (in Portuguese)
- **Self-regulatory Agreement** covering the portrayal of violence on television, between the PSB & TV commercial stations, of 9 July 1997 (Agreement signed by the three main national broadcasters RTP, SIC and TVI): www.ics.pt/index.php?op=cont&lang=en&Pid=79&area=340 (in English)

A. Content distribution rules

<p>Must-carry</p>	<p>The obligation to transport programme services should have been established by decree-law, but no specific rules have been published until now.</p> <p>As per the terms of article 18.º, paragraph 3 of the Broadcasting Act “in the awarding of licenses for digital terrestrial broadcasts with national coverage, transmission capacity will be reserved for television programme services held by licensed operators or concession holders on the date this law comes into effect”. Therefore, in the near future DTT (Digital Terrestrial Television) license process transmission capacity shall be reserved to Public Service Channels and TVI and SIC (terrestrial and analogue) commercial channels.</p> <p>In terms of article 5, paragraph 9 of Law No. 5/2004, 10 of February (establishes the legal regime applicable to the electronic communications networks and services and associated services and defines the assignments of the national regulatory authority (NRA) in this field), the NRA (ICP-ANACOM) may contribute “to ensure the implementation of policies aimed at the promotion of cultural and linguistic diversity, as well as pluralism, in particular of the media”. One of the legal instruments is the definition of “must carry” rules.</p> <p>According to article 43, paragraph 1 (Law No. 5/2004, of 10 February) it is incumbent upon the NRA “to impose upon undertakings providing electronic communications networks used for the distribution of radio or television broadcasts ‘must carry’ obligations, for the transmission of specified radio and television broadcast channels and services, specified under the law by competent authorities, where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts”. In what regards television sector, the cable network “TV Cabo” and the terrestrial transmission television network, both actually (March 2006) owned by Portugal Telecom, are covered by this legal provision.</p> <p>In terms of article 43, paragraph 2 (Law No. 5/2004, of 10 February), the obligations referred herein above “shall only be imposed where they are necessary to meet clearly defined general interest objectives and shall be reasonable, proportionate, transparent and subject to periodical review”.</p> <p>The new Regulatory Authority for the Media ‘ERC – <i>Entidade Reguladora para a Comunicação Social</i>’, created by Law No. 53/2005, of 8th November, has the power to define which television and radio programme services (channels) shall be covered by the “must carry” and “must offer” regime, as to delineate the criteria for EPGs access rules and channels numbering [article 24, paragraph 3, r) and s), Law No. 53/2005, of 8 November].</p>
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<p>Must-offer²</p>	<p>Television operators, under the jurisdiction of the Portuguese State, who hold exclusive rights for the transmission of events which are considered to be of general public interest, pursuant to paragraph 4 of article 28 of Law no. 32/2003, of 22 August, are obliged to cede the respective signal, via live coverage or deferred coverage, if requested to do so, against payment of a retribution, to operators who carry out international broadcasts intended for Portuguese communities abroad or to Portuguese-speaking countries, for the restricted use thereof in such broadcasts.² Both commercial TV broadcasters must offer an hour of original and/or current affairs programmes to the public broadcaster in charge of international broadcasts intended for Portuguese communities abroad or to Portuguese-speaking countries.</p>
<p>Must-list on EPGs (Electronic Programme Guides)³</p>	<p>The access rules of EU electronic communications regulatory framework apply. No special provisions concerning must-list on EPGs.</p> <p>The regulatory body for communications has the authority to impose access and interconnection obligations on any undertaking, to the extent that is necessary, regardless of whether it holds significant market power or not, to provide access to APIs and EPGs, on fair, reasonable and non-discriminatory terms, in order to ensure accessibility for end-users to digital radio and television broadcasting services specified by the competent authorities under the law.³</p> <p>a) Providers of digital interactive television services for distribution to the public on digital interactive television platforms, regardless of the transmission mode, shall encourage the use of an open API. b) Providers of all enhanced digital television equipment deployed for the reception of digital interactive television services on interactive digital television platforms shall encourage the compliance with an open API in accordance with the minimum requirements of the relevant standards or specifications.</p>

B. Advertising

<p>Advertising quota</p>	<p>PSB & Commercial TV^{4,1}</p>	<p><i>The EU quota provisions apply.</i></p> <p>Advertising for alcoholic beverages is prohibited between 7 a.m. to 9.30 p.m.</p> <p>Forbidden are all forms of advertising for:</p> <ul style="list-style-type: none"> - Tobacco. - Medical treatments and prescription medications. - Lotteries, except those promoted by the Santa Casa da Misericórdia de Lisboa. - The paranormal. <p>The transmission time devoted to advertising or teleshopping messages, every day and in each period between two one-hour units, shall not exceed 10% (conditional access services) or 20% (free-to-air services), depending on whether or not it is a television programme service broadcast free-to-air.¹</p> <p>In television programme services with national coverage and broadcast free-to-air, the time devoted to advertising messages may not exceed 15% of the daily transmission time, except when these include other forms of publicity or teleshopping messages, when the limit may increase to 20%.¹</p> <p>Announcements made by television operators in connection with their own programmes and products directly derived from those programmes, sponsorships, teleshopping windows, as well as those concerning public services or with public interest and humanitarian appeals, broadcast free of charge¹ are exempt from the fixed limits mentioned above.</p> <p>RTP1, the first channel of PSB, may broadcast 6 minutes of advertisements per transmission hour. RTP2, the second channel of PSB, may not broadcast any advertisements.</p>
<p>Separation of advertisements and programmes – internal breaks</p>	<p>PSB & Commercial TV¹</p>	<p><i>EU provisions apply.</i></p> <p>Commercials shall be inserted between programmes. Commercials can also be inserted during broadcasts in such a way that they do not damage the</p>

		<p>integrity, nature and value of the broadcast, taking into account any natural breaks, the duration of the broadcasts, and any copyrights regulations.</p> <ul style="list-style-type: none">- In the case of programmes divided into self-contained parts, sports programmes, news reports and entertainment programmes that are similarly structured to include intervals, commercial breaks can be inserted only between the self-contained parts or intervals.- Generally, when programmes are interrupted by commercials, at least 20 minutes shall elapse between breaks in the programme. <p>Feature films and television films (except, series, soaps, entertainment shows and documentaries) with a duration exceeding 45 minutes may be interrupted every 45 minutes.</p> <p>During programmes aimed at children all advertising for alcohol and tobacco is forbidden, as well as advertisements containing violent, pornographic and offensive material.</p> <p>Advertisements may not interrupt:</p> <ul style="list-style-type: none">- The broadcasting of a film by pay-per-view and subscription television services.- Broadcasts of the Parliamentary Channel.- Religious broadcasts.- Children's programmes and news and current affairs programmes lasting less than 30 minutes.
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C. Content quota

<p>1. EU/National and original production quota</p>	<p>PSB & Commercial TV¹ PSB TV¹</p>	<p><i>The EU provisions apply.</i></p> <p>Operators are obliged to promote the broadcast of programmes in Portuguese and reserve for Portuguese production a considerable percentage of transmission time, at peak viewing hours.¹</p> <p>The general concession of the public television service also includes the obligation to transmit two programme services, especially destined for the Autonomous Regions of the Azores and Madeira, respectively.¹</p> <p>The public television service will also involve a service of programmes particularly directed at, among others, independent production, Portuguese cinema, and audiovisual experimentation.¹</p>
<p>Language quota</p>	<p>PSB & Commercial TV¹</p>	<ul style="list-style-type: none"> • Broadcasts shall be spoken or subtitled in Portuguese, without prejudice to the possible use of other languages in programmes that fulfil occasional informative needs or are destined for the teaching of foreign languages. • Television programme services with national coverage, with the exception of those whose nature and thematic content would not permit such an approach, shall devote at least 50% of their broadcasts, excluding the time reserved for advertising, teleshopping and teletext services, to the broadcast of original Portuguese-language programmes. • Without prejudice to the previous paragraph, television operators shall devote at least 15% of their transmission time to creative programmes originally produced in the Portuguese language. • The percentages established in the previous two paragraphs may be filled, up to 25%, by programmes originating in other Portuguese-speaking countries and must be shown in peak viewing periods.¹ <p>All advertising should be in Portuguese. Certain exceptions are allowed.⁴</p> <p>PSBs must promote the broadcasting of programmes in Portuguese and reserve for Portuguese production a considerable percentage of transmission time, at peak viewing hours.¹</p>
<p>PSB TV¹</p>	<p>PSB TV¹</p>	

D. Content policy

<p>Public decency rules</p>	<p>1. Protection of minors^{1,7} & PSB Commercial TV¹</p>	<p><i>EU regulations are observed.</i></p> <p>Except in cases stipulated in the Television Law, television broadcasting is based on the freedom of programming and neither the Public Administration nor any institute of sovereignty, with the exception of the courts of law, shall impede, limit or impose the broadcasting of any programmes.¹</p> <p>All television operators shall guarantee in their programming, through practices of self-regulation, that broadcasting ethics are consistently observed, particularly with regard to respect for human dignity and for other fundamental rights, with special protection provided for the more vulnerable members of society such as children and young people.¹</p> <p>All items of programme services shall respect, in their presentation and content, the fundamental rights and the free development of children and adolescents.¹</p> <p>Any other programmes which may adversely affect the development of children or adolescents or affect any other vulnerable members of the public may only be broadcast between the hours of 11 p.m. and 6 a.m. and shall be identified by the presence of the appropriate visual symbol throughout their duration. The television broadcasting of works which have been subject to age rating systems for the purposes of cinematographic or videographic distribution shall be preceded by a mention of the rating that they have been given by the competent authority, and are subject to the restrictions referred to in the previous paragraph whenever the rating in question considers access to such works inadvisable for minors under 16 years of age. Transmissions of programme services in encoded form.¹ are exempt.</p> <p>The provisions are applicable to all items of programming, including advertising and messages, extracts or any images of self-promotion.¹</p> <p>Distribution and selling of pictures, films or other recording media representing acts of a pornographic nature or representing minors younger than 14 or influencing minors younger than 14 through pornographic conversation, documentation or performance is punishable under article 172 & 173 of the Portuguese Criminal Code.¹</p>
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2. Harm, offence, crime, racism, violence and pornography	PSB & Commercial TV ¹	All items of programme services shall respect, in their presentation and content, the dignity of the human being, and shall not include gratuitous violence or incitement to hatred, racism or xenophobia, nor under any circumstances include pornography within a service available on a free-to-air basis. The provisions are applicable to all items of programming, including advertising and messages, extracts or any images of self-promotion. Images with these characteristics may be transmitted in news services when they are of journalistic relevance and are presented with respect for the ethical standards of the profession and preceded by a warning concerning their nature. ¹
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REFERENCES

1. Television Law no. 32 of 22 August 2003.
2. Decree-Law no. 84 of 28 April 2005.
3. Law no. 5 of 10 February 2004.
4. Advertising Code (*Código Da Publicidade*), Decree-Law No. 330, 23 October 1990, (last amended in 2004): www.rtp.pt/wportal/grupo/legislacao.php
5. Radio Law (*Lei da Rádio*): www.ics.pt/index.php?op=cont&lang=en&Pid=79&area=354 (in English).
6. Co-regulatory protocol between the PSB & commercial stations of 21 August 2003, PROTOCOLO RTP / SIC / TVI (*Protocolo assinado pelos três operadores*): www.ics.pt/verfs.php?fskod=284&lang=pt
7. Children or young people are individuals younger than 18.

SWITZERLAND

<p>Audiovisual policy</p>	<p>The Swiss Federal Council, The Federal Department for Environment, Transport, Energy and Communications (DETEC)</p> <ul style="list-style-type: none"> ■ The Federal Office of Communications, OFCOM, (telecommunications and broadcasting regulatory body): www.bakom.ch/index.html?lang=en <p><i>Other relevant regulatory bodies:</i></p> <ul style="list-style-type: none"> ■ Independent Broadcasting Complaints Authority, AIEP (<i>L'Autorité indépendante d'examen des plaintes en matière de radio-télévision</i>), www.ubi.admin.ch/f/index.htm ■ The Federal Communications Commission, ComCom (extraparlimentary commission in the field of telecommunications) ■ The Swiss Mass Media Council, www.presserat.ch/index.htm
<p>Legislation</p>	<p><i>Relevant national legal framework:</i></p> <p>NB The Swiss broadcasting law was adopted at the end of March 2006 and will be effective in the first half of 2007.</p> <ul style="list-style-type: none"> ■ Radio and Television Federal Law (LRTV) of 21 June 1991, last amended in 2004, www.admin.ch/ch/f/rs/c784_40.html ■ <i>l'Ordonnance sur la radio et la télévision</i> (ORTV) of 6 October 1997: www.admin.ch/ch/f/rs/c784_401.html (in French)

A. Content distribution rules

Must-carry ¹		<p>If broadcast on microwave⁵, cable operators must carry:</p> <ul style="list-style-type: none"> - All terrestrial radio stations available in the geographic and linguistic area⁴ designated to the cable operator. - The terrestrial regional-language channels of the Swiss public broadcaster SRG SSR. - All terrestrial free-to-air TV channels available in the geographic and linguistic area designated to the cable operator. - Other TV channels of the Swiss public broadcaster SRG SSR.
Must-offer		N/a.
Must-list on EPGs (Electronic Programme Guides) ^{1,2}		<p>If a cable operator provides EPG facilities, the regional-language channels of the Swiss public broadcaster SRG SSR have a statutory right to appropriate prominence (<i>i.e.</i> one of the first positions). Additionally, the first 20 positions must be assigned to:</p> <ul style="list-style-type: none"> - All terrestrial radio stations available in the geographic and linguistic area designated to the cable operator. - The terrestrial regional-language channels of the Swiss public broadcaster SRG SSR. - All terrestrial free-to-air TV channels available in the geographic and linguistic area designated to the cable operator. - Other TV channels of the Swiss public broadcaster SRG SSR.

B. Advertising

Advertising quota	PSB TV²	<p>Advertising may not exceed 8% of the daily transmission time. Advertising may not exceed 12 minutes per clock hour. The broadcaster's self-promotion spots (except those for own programmes and material directly related to own programmes) is considered advertising and counts towards the quotas mentioned above.</p> <p>Advertising may not exceed 15% of the daily transmission time. Advertising may not exceed 12 minutes per clock hour. The broadcaster's self-promotion spots (except those for own programmes and material directly related to own programmes) is considered advertising and counts towards the quotas mentioned above.</p>
Separation of advertisements and programmes – internal breaks	PSB & Commercial TV¹	<p>Complete programmes which last more than 90 minutes can be interrupted once by advertising. Also, commercials can be inserted in so-called 'natural breaks' (for example, at half time during the transmission of a football match).</p> <p>Advertising messages must not be included in editorial programmes.</p> <p>The beginning and end of an advertising slot must be separated from the programme by a clear visual or audible marker ('separation principle').</p> <p>An advertisement that lasts longer than 60 seconds must be constantly identified as such for reasons of transparency.</p>

C. Content quota

EU/national production quota	PSB & Commercial TV¹	<p>The EU quotas apply. Although not an EU Member State, Switzerland is a signatory of the European Council Convention on Transfrontier Television and participates in both current EU MEDIA programmes. The resulting obligations regarding the EU production quotas to be observed by Swiss broadcasters came into effect at the beginning of April 2006.</p>
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		All broadcasters must favour Swiss audiovisual productions, and in particular Swiss cinema productions. All broadcasters should make an effort to promote European productions. ¹
Language quota⁴	PSB TV¹	<p>The Swiss public broadcaster SRG SSR must provide:</p> <ul style="list-style-type: none"> - Television channels broadcasting in German, French and Italian respectively (and aimed specifically at each linguistic area). On the German TV channel, transmission time should be reserved for broadcasts in Romansch. <p>All television channels of the Swiss public broadcaster aimed specifically at a linguistic area must enjoy nationwide coverage.</p>

D. Content policy

Public decency rules		N/a.
1. Protection of minors	PSB & Commercial TV	
2. Harm, offence, crime, racism, violence and pornography	PSB & Commercial TV¹	The broadcasting of material which may cause offence and material which condones and/or glamorizes violence is prohibited.

REFERENCES

1. Radio and Television Federal Law (LRTV) of 21 June 1991, last amended in 2004: www.admin.ch/ch/f/rs/c784_40.html.
2. *L'Ordonnance sur la radio et la télévision (ORTV)* of 6 October 1997: www.admin.ch/ch/f/rs/c784_401.html (in French).
3. SRG SSR Charter: http://www.srg-ssr.ch/fileadmin/pdfs/concession_ssr_fr.pdf.
4. The linguistic areas correspond to the four major languages in Switzerland: German, French, Italian and Romansch.
5. '*Microwave relay* describes the receiving and retransmission of microwave signals. A microwave relay site would typically consist of reception and retransmission microwave antenna(e) mounted on a tower or building and would include all associated electronic devices/equipment.' (www.tbs-sct.gc.ca/rpm-gbi/lexicon-lexique/term-terme.asp?language=en&id=474).

THE NETHERLANDS

Audiovisual policy	<p>The Ministry for Education, Culture, and Science <i>N.B.</i> The reform of the public service broadcaster, effective 2008, is expected to lead to structural changes. With regard to content regulation, the most relevant change in the context of this report refers to advertising – no advertisements may be broadcast before and after programmes for children.</p> <p>Other relevant official bodies:</p> <p>The Ministry of Economic Affairs</p> <ul style="list-style-type: none"> ■ Media Authority (<i>Commissariaat voor de Media</i>) ■ Advertising Code Foundation (Stichting Reclame Code) <p>Other relevant regulators:</p> <ul style="list-style-type: none"> ■ The Independent Post and Telecommunications Authority (<i>Onafhankelijke Post- en Telecommunicatie Autoriteit - OPTA</i>) ■ The Netherlands Competition Authority (NMa), www.nmanet.nl/engels/home/Index.asp <p>Self-regulatory body: NICAM (the Netherlands Institute for the Classification of Audiovisual Media). When implementing the revised Television Without Frontiers Directive, the Netherlands amended the system for the protection of minors and, in doing so, created a central role for NICAM which is a co-operative alliance of trade associations engaged in broadcasting, film, and video and DVD distribution, designated as the self-regulating body.</p>
Legislation	<p>Relevant national legal framework:</p> <ul style="list-style-type: none"> ■ The Dutch Media Act (1988, updated 2005) (Mediawet) ■ The Concessions Act or Media Decree (updated 2003) (Mediabesluit) ■ The Telecommunications Act (Telecommunicatiewet) <p>Other relevant laws and regulatory acts: The Dutch Advertising Code (Nederlandse Reclame Code)</p>

A. Content distribution rules

Must-carry¹		<p>Cable - In 1997, a statutory <i>basic package</i> was introduced in order to guarantee the accessibility and affordability of programmes for consumers. <i>Cable operators</i> must provide at least 15 television channels and 25 radio channels, including in any event the following channels to which the must-carry applies:</p> <p>a) The programme services of the broadcasters which have obtained national broadcasting time.</p> <p>b) The programme services of the broadcaster which has obtained regional broadcasting time, aimed at the province in which the broadcasting network is located.</p> <p>c) The programme services of the broadcaster which has obtained local broadcasting time, aimed at the municipality in which the network broadcasting is located.</p> <p>d) The Dutch-language television programme services of the national Belgian public broadcasting service.</p> <p>e) Two Dutch-language radio programme services of the national Belgian public broadcasting service.¹</p>
Must-offer		N/a.
Must-list on EPGs (Electronic Programme Guides)		N/a.

B. Advertising

<p>Advertising quota</p>	<p>PSB & Commercial TV¹</p>	<p>Maximum 15% per day and 12 min. per full clock hour for (all forms of) advertising. Self-advertising (messages in connection with attracting new members, associative activities or any sideline activities) are not permitted without the consent of the Media Authority.¹</p>
<p>Separation of advertisements and programmes – internal breaks¹</p>	<p>PSB TV¹</p>	<p>The Media Act imposes restrictions on advertising on the public broadcasting system. Commercials which interrupt programmes are not permitted and the amount of airtime devoted to advertising is limited to a maximum of 10% (of which one third may be used for filler items before, after and between the advertising messages) and may vary for television and radio.</p> <p>A. The broadcasting time of the Radio and Television Advertising Foundation shall be scheduled in such a way that:</p> <p>a) On a daily basis, the Radio and Television Advertising Foundation's broadcasting time on any national, regional, and local programme service network never amounts to more than 15% of the total broadcasting time used on that programme service network.</p> <p>b) In any given clock hour, the Radio and Television Advertising Foundation's broadcasting time never amounts to more than 12 minutes.</p> <p>c) On Sundays, the programmes of the Radio and Television Advertising Foundation do not immediately precede or follow programmes of a religious or spiritual nature, unless the establishment which has obtained broadcasting time and which is responsible for that programme has lodged no objections against such practice.</p> <p>d) Any programme of another establishment which has obtained national broadcasting time will only be interrupted by Radio and Television Advertising Foundation programmes if:</p> <ol style="list-style-type: none"> 1. The programme is longer than 1.5h. 2. The programme is a report on or coverage of an event. 3. The programme contains a full report on the entire performance or event. 4. The interruption takes place during natural breaks occurring in the performance or event or between separate parts of the performance or event. 5. The interruption lasts a minimum of 1.5min. (TV). 6. The establishment which has obtained broadcasting time and which is responsible for the

		<p>programme has no objections to the interruption on the grounds of it having an adverse affect on the integrity, the character or the coherence of the programme in question.</p> <p>B. Programmes of national broadcasts can be interrupted maximum once every 45 minutes (TV).</p> <p>C. Religious and spiritual programmes and programmes aimed at an audience of minors under the age of 12 cannot be interrupted by advertisements.</p> <p>D. Rules may be laid down by Order in Council concerning the scheduling of the broadcasting time of the Radio and Television Advertising Foundation immediately prior to or immediately following programmes that are specifically aimed at minors under the age of 12.</p> <p>E. The Radio and Television Advertising Foundation's television broadcasting time may only be scheduled subject to a minimum of 1.5 minutes per advertising block.¹</p>
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C. Content quota

EU/national production quota	PSB & Commercial TV¹	
		<p>Television broadcasters, public and commercial, national and local, shall ensure that:</p> <ul style="list-style-type: none"> ▪ European productions account for over 50% of the transmission hours of each broadcaster. ▪ European independent productions account for at least 10% of transmission hours; of these, one third must be works transmitted within five years of production. The Dutch Media Act raises this percentages for PSB (except for the Radio Netherlands World Service) as follows: <ul style="list-style-type: none"> - At least 25% of the total broadcasting time of broadcasting establishments which have obtained national broadcasting time shall be devoted to independent works. - At least 17.5% of the total broadcasting time on each television programme service network shall be devoted to programmes as referred to in the previous sentence. <p>In calculating these percentages, only the transmission time between 4 p.m. and 12 p.m. will be taken into consideration.</p> <p>For the purposes of this section, the following television programmes shall be disregarded:</p> <ul style="list-style-type: none"> a) Programmes consisting of news. b) Programmes relating to sport. c) Programmes which have the character of a game, with the exception of programmes of a

		<p>cultural or educational nature which also have the character of a game.</p> <p>e) The nationally broadcast teletext programme service.</p> <p>f) The broadcasting time of the Radio and Television Advertising Foundation, government agencies, religious and other spiritual organisations and political parties.</p>
<p>Language quota</p>	<p>PSB TV</p>	<p>Besides the European works quota, the public service broadcasters are required by the Dutch Media Act to broadcast at least 50% of television airtime in the Dutch or Frisian language (Section 54a(1)).¹ The Radio and Television Advertising Foundation, Radio Netherlands World Service, government agencies, religious or other spiritual organisations and political parties¹ are exempt.</p>
	<p>Commercial TV</p>	<p>Besides the European works quota, the Netherlands applies a quota of Dutch-language works of 40% for commercial broadcasting services.</p> <p>In special cases, the Dutch Media Authority can, upon request and subject to conditions, fix percentages lower than the stated 40%, with respect to certain commercial broadcasting entities. The provision does not apply to 'programme services for special broadcasting purposes' (<i>i.e.</i> subscription-only and broadcast in encrypted format).</p>

D. Content policy

<p>Public decency rules</p>	<p>PSB & Commercial TV</p>	<p><i>The EU provisions apply.</i></p> <p>Programmes which could seriously impair the physical, mental or moral development of persons under the age of 16 may not be broadcast. Exceptions can be granted by the Media Authority who monitors compliance with this rule.¹</p> <p>In addition, licensed broadcasters may only broadcast potentially harmful audiovisual material if they are members of NICAM (the Netherlands Institute for the Classification of Audiovisual Media) that lays down standards for the classification of audiovisual material, and informs the viewing public via a viewing guide (<i>Kijkwijzer</i>). Symbols should be displayed at the start of a programme, combined with the 12 option of calling up the symbols on teletext or the decoder (in the case of digital television).</p> <p>Criteria for the classification of programmes include in any event the extent to which:</p> <ol style="list-style-type: none"> 1. Fear is aroused. 2. Violent behaviour is shown or justified. 3. The use of drugs is made to look attractive or is condoned. 4. Pornography is involved. 5. Products are not suitable to be shown to certain categories of persons under the age of 16 on other grounds, according to generally held opinions.² <p>No television programmes which are deemed harmful to children aged 12 and under may be broadcast before 8 p.m., and no programmes classified as harmful for young people aged up to 16 may be shown before 10 p.m.</p>
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2 Harm, offence, crime, racism, violence and pornography	PSB & Commercial TV	<p><i>The EU provisions apply.</i></p> <p>Regarding <i>offensive language, hardcore pornography, and gratuitous violence</i> etc. broadcasters must ensure that material which may cause offence is justified by the context (<i>i.e.</i> editorial content, service, time of broadcast, etc.) and does not condone or glamorise violent, dangerous or seriously antisocial behaviour and is likely to encourage others to copy such behaviour.</p>
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REFERENCES

1. The Dutch Media Act: <http://www.cvdmm.nl/pages/regelgeving.asp?m=w&>
2. The Dutch Media Act: Section 53, www.cvdmm.nl/pages/english.asp?m=a& and www.cvdmm.nl/pages/regelgeving.asp?m=w&

THE UNITED KINGDOM

<p>Audiovisual policy</p> <p>Regulator</p>	<p>The Department for Culture, Media and Sport</p> <ul style="list-style-type: none"> ■ Office of Communications (Ofcom), the regulator for the UK communications industries, with responsibilities across television, radio, telecommunications and wireless communications services – across all categories of media as well as broadcasters (public and commercial) ■ The (Board of) Governors of the BBC – only for the BBC ■ The Welsh Fourth Channel Authority (S4C) – only for the S4C
<p>Legislation</p>	<p>Relevant national legal framework:</p> <ul style="list-style-type: none"> ■ Broadcasting Acts of 1990 and 1996 ■ Communications Act 2003 <p>Relevant regulatory acts:¹</p> <p>ITC Rules on Amount and Scheduling of Advertising: www.ofcom.org.uk/static/archive/itc/itc_publications/codes_guidance/rasa/index.asp.html</p>

A. Content distribution rules

Must-carry²	<p>The <i>must-carry services</i> include only:</p> <ul style="list-style-type: none"> ▪ Any service of television programmes provided by the BBC so far as it is provided in digital form and is a service in relation to which Ofcom has functions. ▪ The Channel 3 services so far as provided in digital form. ▪ Channel 4 so far as provided in digital form. ▪ Channel 5 so far as provided in digital form. ▪ S4C Digital. ▪ The digital public teletext service. <p>The <i>must-carry networks</i> include only:</p> <ul style="list-style-type: none"> - The <i>terrestrial</i> transmission network provided by NTL and Crown Castle. <p>Ofcom considers that appropriate regulatory and commercial arrangements are already in place to give the necessary level of assurance that carriage of public service content on <i>satellite and cable</i> platforms can be secured on reasonable terms.</p>
Must-offer	BBC must offer its channels to satellite provider BSkyB.
Must-list on EPGs^{3,4} (Electronic Programme Guides)	<p>a) Network providers offering an EPG must give appropriate prominence to public service channels (national, regional and local).</p> <p>b) To provide the features and information needed to enable EPGs to be used by people with disabilities affecting their sight or hearing or both 'disabled people'.</p> <p>c) To secure fair and effective competition.</p> <p>BSkyB must allow any television service which wants it to have a listing on the Sky EPG. BSkyB must also treat that service fairly and reasonably, and it must not treat it differently than other television services without a good reason.</p>

B. Advertising

<p>Advertising quota¹¹</p>	<p>PSB TV Commercial TV^{5,6}</p>	<p><i>The EU quota provisions apply.</i></p> <p>Free of advertising, self-promotion permitted.</p> <ul style="list-style-type: none"> ▪ In any one clock hour there must be no more than 12 minutes of advertising spots and/or teleshopping spots. ▪ Rules for Channels 3-5 only: <p>The total amount of advertising in any one day must not exceed an average of seven minutes per hour of broadcasting. A day's broadcasting is deemed to commence at 6 a.m. and run for the following 24 hours.</p> <p>In the periods 6 p.m. – 11 p.m. and 7 a.m. – 9 a.m. the total amount of advertising must not, without the Commission's prior permission, exceed an average of eight minutes an hour on any one day.</p> <ul style="list-style-type: none"> ▪ Other services: <p>The total amount of spot advertising in any one day must not exceed an average of nine minutes per hour (15%) of broadcasting.</p> <p>This may be increased by a further three minutes per hour (5%) devoted to teleshopping spots, but this additional 5% must not be used for other forms of spot advertising.</p> <p>Particular sensitivity is required in relation to advertising inserted in or around news programmes where a news item, especially one of a tragic nature, may completely transform the context in which an advertisement having some apparent connection with it may be perceived by viewers. In some cases of this kind a separation from news references may be insufficient and it may be preferable to suspend the advertising altogether in order to avoid distress or offence.</p> <p>The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:</p> <ul style="list-style-type: none"> i) Alcoholic drinks containing 1.2% alcohol or more by volume. ii) Bingo.
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		<p>iii) Religious matter subject to the rules on Religious Advertising in the BCAP Advertising Standards Code.</p> <p>iv) Slimming products, treatments or establishments.</p> <p>The following may not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16:</p> <ul style="list-style-type: none"> i) Lotteries. ii) Pools. <p>The following may not be advertised in or adjacent to children's programmes or programmes which are of particular appeal to children under 10:</p> <ul style="list-style-type: none"> i) Female sanitary protection products. <p>The following may not be advertised in or adjacent to children's programmes:</p> <ul style="list-style-type: none"> i) Drinks containing less than 1.2% alcohol by volume when presented as low or no-alcohol versions of an alcoholic drink. ii) Liqueur chocolates. iii) Matches. iv) Medicines, vitamins and other dietary supplements. v) Trailers for films or videos carrying an 18- or 15- certificate. <p>The following may not be advertised in or between religious programmes:</p> <ul style="list-style-type: none"> i) Alcoholic drinks containing 1.2% alcohol or more by volume. <p>In order to maintain a distinction between programmes and advertisements that is clear to the viewer, and to minimise any risk of confusion between the two, advertisements featuring a well known personality or performer, or a person who takes a leading role in or whose appearance is central to a programme, must not be scheduled in breaks in or adjacent to that programme. For these purposes cartoon and puppet characters are classed as 'persons'.</p> <p><i>N.B.</i> Exceptions to the rules mentioned above have not been included in this document.</p>
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C. Content quota

EU/national production quota ¹²	PSB & Commercial TV
<p><i>The EU quota provisions apply.</i></p> <p><i>All standards apply equally to public and commercial broadcasters, unless otherwise specified.</i></p> <p>Where practicable, on each channel, television broadcasters established in the UK shall ensure that⁸ :</p> <ul style="list-style-type: none"> - European productions account for over 50% of the transmission hours of each broadcaster. - European independent productions account for at least 10% of transmission hours; of these, an ‘adequate proportion’ must be works transmitted within five years of production. <p>Exempt are television channels that:</p> <ul style="list-style-type: none"> a) Are not receivable in the European Union. b) Comprise programming broadcast in a language other than a language of the European Union. c) Serve a local or regional audience, and do not form part of a national network. d) Are comprised wholly of news or sports event programming, games, teletext services or teleshopping. <p>The independent production quota for PSBs was set at 25% of the qualifying transmission hours and the profile of the 25% must reflect the wide range and diversity of the public broadcaster’s programming. The 25% quota is applied across all of the television channels and services combined. From 2005 there are also separate 25% quotas for BBC 1 and BBC 2.</p> <p><i>N.B.</i> Owing to the British legal interpretation of what constitutes an independent producer, Endemol does <i>not</i> fall in this category.⁹</p>	

<p>Language quota¹⁰</p> <p>D. Content policy</p> <p>Public decency rules</p> <p>1. Protection of minors¹³</p>	<p>PSB</p> <p>PSB & Commercial TV</p>	<p>- <i>Welsh</i> – 10 hours a week of Welsh language television programmes on S4C; and BBC <i>Cymru'r Byd</i> at bbc.co.uk/cymru provides a full online service in Welsh.</p> <p>- <i>Gaelic</i> – In 2004, BBC Scotland produced 28 hours of Gaelic television (BBC Alba, weekly Gaelic block of programming).</p> <p><i>The EU provisions apply.</i></p> <p><i>All standards apply equally to public and commercial broadcasters, unless otherwise specified.</i></p> <p>The <i>time of broadcast</i> is one of the most important elements:</p> <ul style="list-style-type: none"> ▪ For television, the watershed for adult programming starts at 9 p.m. (till 5.30 a.m.). <p>On premium subscription film services which are not PIN-protected the watershed is at 8 p.m. There is no watershed on premium subscription film services or pay-per-view services which are PIN-protected.</p> <p>Material that might seriously impair the physical, mental or moral development of people under 18 must not be broadcast.</p> <p>Broadcasters must take all reasonable steps to protect people under 18.</p> <p>The transition to more adult material must not be unduly abrupt at the watershed or after the time when children are particularly likely to be listening.</p>
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		<p><i>In the coverage of sexual and other offences in the UK involving the under-eighteens and where statutory or other legal restrictions apply preventing personal identification, broadcasters should also be particularly careful not to provide clues which may lead to their identification, whether (allegedly) involved as a victim, witness, defendant or other perpetrator in the case of sexual offences featured in criminal, civil or family court proceedings.</i></p> <p>Unless there is strong editorial justification:</p> <ul style="list-style-type: none"> - <i>the use of illegal drugs, the abuse of drugs, smoking, solvent abuse and the misuse of alcohol</i> - <i>violence, whether verbal or physical, and dangerous behaviour, or the portrayal of dangerous behaviour, that is easily imitable by children in a manner that is harmful or dangerous</i> - <i>offensive language</i> - <i>sex</i> - <i>nudity</i> - <i>exorcism, the occult and the paranormal</i> <p>must not be featured in programmes made primarily for children; must not be broadcast before the watershed, or when children are particularly likely to be listening; and must generally be avoided and in any case must not be condoned, encouraged or glamorised in other programmes broadcast before the watershed, or when children are particularly likely to be listening.</p> <p>Further provisions are made for <i>films, premium subscription film services, pay-per-view services, adult-sex material on premium subscription services</i> which may not broadcast films or cuts from these films refused classification by the British Board of Film Classification (BBFC) or, if BBFC-rated, must observe the obligations to be derived from that rating.</p>
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<p>2.1 Harm and offence</p>	<p>PSB & Commercial TV</p>	<p>As far as the <i>involvement of people under 18 in programmes</i> is concerned due care must be taken over their physical and emotional welfare and their dignity. This is irrespective of any consent given by the participant or by a parent, guardian or other person over the age of 18 in <i>loco parentis</i>.</p> <p>Also, prizes aimed at children must be appropriate to the age range of both the target audience and the participants.</p> <p>Broadcasters should pay particular attention to the <i>privacy</i> of people under 16. They do not lose their rights to privacy because, for example, of the fame or notoriety of their parents or because of events in their schools.</p> <p>Regarding <i>offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language</i> (for example, on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation), etc. broadcasters must ensure that material which may cause offence is justified by the context (<i>i.e.</i> editorial content, service, time of broadcast, etc.) and does not condone or glamorise violent, dangerous or seriously antisocial behaviour and is likely to encourage others to copy such behaviour. Detailed provisions are made for the broadcast of:</p> <ul style="list-style-type: none"> - Methods of suicide and self-harm. - Demonstrations of exorcism, the occult, the paranormal, divination, or practices related to any of these that purport to be real (as opposed to entertainment). - Material featuring demonstrations of hypnotic techniques. - Simulated news. - Competitions. - Techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds. <p>Also, television broadcasters must take precautions to maintain a low level of risk to viewers who have photosensitive epilepsy.</p>
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2.2 Crime

PSB & Commercial

All standards apply equally to public and commercial broadcasters, unless otherwise specified.

Special provisions are made for:

- Descriptions or demonstrations of criminal techniques which contain essential details which could enable the commission of crime.
- Payment, promise of payment, or payment in kind, made to convicted or confessed criminals, (potential) witnesses in (prospective) trials whether directly for an interview or other programme contribution. The only exception is where it is in the public interest.
- Material that could endanger lives or prejudice the success of attempts to deal with a hijack or kidnapping.

REFERENCES

1. The (majority of the) standards are laid down by OFCOM in its Broadcasting Code. The Code was updated in 2005 to accommodate, *inter alia*, the phenomenon of media convergence: www.ofcom.org.uk/tv/ifi/codes/bcode/
2. Ofcom Provision of Managed Transmission Services to Public Service Broadcasters: www.ofcom.org.uk/consult/condocs/bcast_trans_serv/must_carry/#content
3. The regulation of Electronic Programme Guides: www.ofcom.org.uk/consult/condocs/epg/epg/
4. Code of Practice on Electronic Programme Guides, Annex C, Electronic Programming Guide: published responses consultation: www.ofcom.org.uk/consult/condocs/epg/epg/annexc/#content
5. ITC Rules on Amount and Scheduling of Advertising: www.ofcom.org.uk/static/archive/itc_publications/codes_guidance/rasa/index.asp.html
6. Broadcast Committee of Advertising Practice (BCAP) Rules on the scheduling of television advertisements: www.cap.org.uk/NR/rdonlyres/7F763788-6A51-4A73-B35B-
7. www.ofcom.org.uk/static/archive/itc_publications/codes_guidance/rasa/index.asp.html
8. Ofcom Guidance on the Television without Frontiers Directive, European production quotas: www.ofcom.org.uk/consult/condocs/e_p_q/condoc/?a=87101
9. Each Member State must introduce a definition of 'independent producer' (see the 'Television without Frontiers' Directive). According to the interpretation given by the British legislator, Endemol does not qualify as an independent producer given that Telefonica (owner of Endemol) is also a broadcaster.
10. BBC Statement of Programme Policy 2005/2006: www.bbc.co.uk/info/statements2005/

DSTI/ICCP/TISP(2006)3/FINAL

11. Ofcom contracted out the day-to-day regulation of broadcast (radio & TV) advertising content to the Advertising Standards Authority in November 2004, whilst retaining ultimate responsibility in law for broadcast advertising.

12. As of 2005 and during the five-year transition period for compliance with the TWF Directive, OFCOM has decided that all quota are to be achieved progressively, having regard to the broadcaster's informational, educational, cultural and entertainment responsibilities to its viewing public, on the basis of suitable criteria.

13. The Broadcasting Code makes special provisions for the purpose of protecting *the under-eighteens*, without referring to them as minors. It should be noted that within this category, the regulator distinguishes a subgroup, namely *children*, defined as the under-fifteens, deserving of further protection.

THE UNITED STATES

<p>Audiovisual policy</p>	<p>U.S. Department of Commerce, the National Telecommunications and Information Administration www.ntia.doc.gov/opadhome/opad_mm.htm</p> <ul style="list-style-type: none"> ■ The Federal Communications Commission (FCC), the Media Bureau, www.fcc.gov ■ The Office of Science and Technology Policy and National Security Council ■ The National Telecommunications and Information Administration, Department of Commerce ■ Local franchising authorities (for adopting and enforcing customer service standards regarding cable operators; the standards are issued by the FCC)
<p>Legislation</p>	<ul style="list-style-type: none"> ■ Title 47 of the Code of Federal Regulations (CFR): http://wireless.fcc.gov/rules.html ■ The Communications Act of 1934 as amended by the Telecommunications Act of 1996: http://www.fcc.gov/Reports/1934new.pdf ■ The Constitution, The First Amendment <p><i>Other relevant regulatory acts:</i></p> <ul style="list-style-type: none"> ■ The Children's Television Act of 1990 ■ The 1992 Cable Act ■ The Satellite Home Viewer Extension and Reauthorization Act of 2004 (SHVERA), www.fcc.gov/cgb/consumerfacts/shvera.html <p>N.B.</p> <ul style="list-style-type: none"> ■ The FCC's authority to regulate programme content is limited. The Communications Act prohibits the censoring of broadcast, cable, or satellite delivered programming. The First Amendment prohibits the censoring of speech in general, which includes

	<p>television and radio programming.</p> <ul style="list-style-type: none"> ■ FCC regulations, in most instances, do not pre-empt state law that imposes more restrictive intrastate requirements or regulations.¹ ■ Broadcast television stations and cable operators are subject to different FCC requirements (compare part 73 with part 76 of the CFR). Broadcast channels carried on cable systems and DBS operators still must adhere to broadcast rules.² ■ There is no single non-commercial broadcast entity in the United States. Instead, there are hundreds of non-commercial educational television and radio stations, each of which is responsible for its own financial, operational, and programming decisions. ■ The FCC does not regulate the Internet or Internet Service Providers (ISPs).
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A. Content distribution rules

<p>Must-carry, Must-offer, May Carry^{3, 4} (broadcast signal requirements)</p>	<p>Under Sections 614 and 615 of the Communications Act, cable operators must set aside up to one third of their channel capacity for the carriage of commercial television stations and additional channels for non-commercial stations depending on the system’s channel capacity.</p> <p>Every cable system must carry at least one local non-commercial educational (NCE) station. Cable systems with more than 36 channels may be required to carry all local non-commercial educational television stations which request carriage. Any cable system operating in a market where no local NCE station is available is required to import one NCE station.</p> <p>Cable operators must carry low power television stations if certain statutory conditions are met.</p> <p>Broadcast television stations operating in a digital-only format may elect mandatory carriage for a single stream of digital programming.</p> <p>Pursuant to Section 338 of the Communications Act, DBS operators may provide local-into-local broadcast television service. Unlike cable operators, which are required to carry local television stations in every market they serve, a DBS operator must carry all stations in any market where it chooses to carry any local television station (<i>‘carry one, carry all’</i>).</p> <p>In both the cable and DBS contexts, commercial broadcasters may elect to be carried pursuant to must</p>
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		<p>carry status or retransmission consent.</p> <p>Where a station elects must carry, it is generally guaranteed carriage, but it is prohibited from receiving compensation for this carriage.</p> <p>Under retransmission consent, the broadcaster and cable or DBS operator negotiate an agreement that may involve compensation in return for permission to retransmit the broadcast signal.</p> <p>Under Section 611 of the Act, PEG channels consist of the following: Public access channels are available for use by the general public. They are usually administered either by the cable operator or by a third party designated by the franchising authority. Educational access channels are used by educational institutions for educational programming. Time on these channels is typically allocated by either the franchising authority or the cable operator among local schools, colleges and universities. Governmental access channels are used for programming by organs of local government. In most jurisdictions, the franchising authority directly controls these channels.</p> <p>PEG channels are not mandated by federal law, rather they are a right given to the franchising authority, which it may choose to exercise. The decision whether to require the cable operator to carry PEG channels are up to the local franchising authority. If the franchise authority does require PEG channels, that requirement will be set out in the franchise agreement between the franchising authority and the cable operator.</p> <p>DBS operators are required to reserve 4% of their channel capacity for ‘non-commercial programming of an educational or informational nature.’ To qualify for carriage on this reserved capacity, programmers</p> <ul style="list-style-type: none"> - Must be organised for a non-commercial, non-profit purpose. - Must be a national educational programming supplier. - Must be responsible for 50% of the direct costs incurred by the DBS operator in making the programming – must offer programming that contains no advertisements, must be of an educational or informative nature, and must be available on a regular schedule. <p>Section 612 of the Communications Act requires cable operators to reserve channel capacity for <i>non-affiliated video programme networks</i> under a leased channel paradigm. Leased access channels are required to be provided by cable operators with 36 or more activated channels. These channels are for</p>
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		<p>commercial use by any person or organisation not affiliated with the cable operator. The Commission has adopted rules for leased access channels addressing maximum reasonable rates, reasonable terms and conditions of use, minority and educational programming, and procedures for resolution of disputes. The Commission's rules require cable operators to place leased access programme networks on any tier that has a subscriber penetration of more than 50%, unless there are technical or other compelling reasons for denying access to such tier. Cable operators are permitted to make reasonable selections when placing leased access channels at specific channel locations.</p> <p>A cable operator offers <i>tiers of programming</i> services for sale to its subscribers. A tier is a programme bundle for which a separate rate is charged by the cable operator. There are three general types of cable service offerings: basic service, cable programming service, and per-channel or per-programme service.</p> <ul style="list-style-type: none"> • Basic service. Pursuant to Section 623 of the Communications Act, every cable subscriber must buy the basic service tier. This tier must include, at a minimum, all over-the-air television broadcast signals and any public, educational, or government access channels required by the local franchise agreement. It may include additional programme services selected by the operator. Basic service tier rates are generally regulated by the local franchising authority if the cable system has not been found to face effective competition by the FCC. DBS operators are not required to offer their subscribers a basic service tier. • Cable programming service. This tier includes all programme channels on the cable system that are not included in basic service, but are not separately offered as per-channel or per-programme services. The rates charged for cable programming services tiers are not regulated. There may be one or more tiers of cable programming service, including digital tiers of service. • Per Channel service. This category of service includes traditional premium services, such as HBO, and non-linear video-on-demand services. These types of programme services are not regulated by the FCC. • Tier Buy Through. A cable operator cannot require a cable subscriber to purchase any tier except the basic tier in order to access per channel programming. In addition, the tier buy-through provision prohibits a cable operator from discriminating between consumers who subscribe to only the basic tier and other subscribers with regard to the rates charged on a per-channel or per-event basis.
<p>Must-list on EPGs (Electronic Programme Guides)^{3, 4}</p>		<p>A must-carry station has a statutory right to a channel position, usually its over-the-air channel number, or another channel number on which it has historically been carried.</p>

B. Advertising

<p>Advertising quota⁴</p>	<p>Non-commercial (including PSB) & Commercial TV^{4, 5}</p>	<p>Except with respect to children's television programming, no law or regulation limits the amount of commercial matter that a station may broadcast.</p> <p>Tobacco and Alcohol. Federal law prohibits advertising for cigarettes, little cigars, smokeless tobacco, or chewing tobacco on radio, TV, or any other medium of electronic communication under the FCC's jurisdiction. The law does not ban the advertising of smoking accessories, cigars, pipes, pipe tobacco, or cigarette-making machines.</p> <p>The FCC does not have a rule or policy regulating advertisements for alcoholic beverages. The decision to carry alcohol advertising is left to the broadcast station or cable programme network.</p> <p>Federal law prohibits broadcasting any advertisement for a lottery or any information concerning a lottery. A lottery is any game, contest, or promotion that contains the elements of prize, chance, and 'consideration' (a legal term that means an act or promise that is made to induce someone into an agreement). There are a number of exceptions to this prohibition.</p> <p>NCE Stations. Advertisements on non-commercial educational (NCE) television stations are generally prohibited under Section 399(b) of the Communications Act. NCE stations may acknowledge contributions over the air, but they may not promote the goods and services of for-profit donors or underwriters. However, such acknowledgements may not interrupt a non-commercial station's regular programming.⁷</p> <p>The advertising prohibition does not apply to any ancillary or supplementary services transmitted on an NCE television station's channel capacity devoted to non-broadcast services. The FCC, however, has concluded that this flexibility must not be allowed to jeopardize the non-commercial and educational mission of public TV. Therefore, in addition to having to provide at least one free video programming service like all digital television broadcast stations, NCE stations must provide a primarily non-commercial, non-profit, educational broadcast service. This means that a 'substantial majority' of all of NCEs DTV services must be non-commercial. Like commercial broadcasters, if NCEs choose to provide ancillary services that generate revenues, they will have to pay a fee of 5% of those revenues to the U.S. Treasury.</p>
<p>Non-commercial (including PSB) TV⁵</p>	<p>Non-commercial educational stations may acknowledge contributions over the air, but they may not</p>	

Commercial TV⁶

promote the goods and services of for-profit donors or underwriters. However, such acknowledgements may not interrupt a non-commercial station's regular programming.

Advertisements directed at children. The FCC's rules limit the amount of commercial matter which may be aired in certain children's television programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. In addition, the limit on the amount of commercial matter applies to all digital video programming. These requirements apply to television broadcasters and cable operators. These limitations are prorated for programmes that are shorter than one hour in duration. The programming at issue for the commercial time limits is programming originally produced and aired primarily for an audience of children 12 years old and younger.

The commercial time limits do not apply to non-commercial educational television stations because these stations are prohibited from airing commercials. Cable operators must also maintain records to verify compliance and make these available for public inspection.

Commercial material includes more than advertisements. For instance, where a commercial announcement is primarily for a product otherwise unrelated to a programme, but that announcement also includes references to or offers of products which are related to the programme, then the broadcast of that commercial announcement during or adjacent to the programme will make that programme a programme-length commercial. In such a case, the entire duration of the programme-length commercial will be counted as commercial material. To avoid being considered a programme-length commercial, commercial material related to a children's programme must be separated from that programme by intervening and unrelated programme material.

The FCC has determined that the display of Internet website addresses during programmes directed at children ages 12 and under is permitted within the commercial time limitations only if the website meets the following criteria:

- It offers a substantial amount of bona fide programme-related or other non-commercial content.
- It is not primarily intended for commercial purposes, including either e-commerce or advertising.
- The website's home page and other menu pages are clearly labelled to distinguish the non-commercial from the commercial sections.
- The page of the website to which viewers are directed is not used for e-commerce, advertising, or other commercial purposes (*e.g.* contains no links labelled 'store' and no links to another page with commercial material). The display of website addresses in children's programmes, however,

		is prohibited during both programme material and commercial material when the site uses characters from the programme to sell products or services. N.B.: These requirements are being held in abeyance as the Commission considers new options proposed by industry and public interest groups.
Separation of advertisements and programmes – internal breaks		

C. Content quota

US and original production quota		N/a.
Language quota	Non-commercial (including PSB) & Commercial TV & Radio⁴	TV/FM dual-language broadcasting in Puerto Rico. No television, Class A television, broadcast station may devote more than 15 hours per week to dual-language ⁹ broadcasting, nor may more than three (3) hours of such programming be presented on any given day.

D. Content policy

Public decency rules⁴		<i>The First Amendment to the Constitution and the Communications Act prohibit the FCC from involving itself in the content of specific programmes or otherwise engaging in activities that might be regarded as programme censorship.</i>
1. Protection of minors	Non-commercial (including PSB) & Commercial TV	Federal law prohibits the broadcasting of obscene programming on broadcast, cable, and subscription television services. To be considered obscene under judicial precedent, material must meet all of the following characteristics: <i>I)</i> An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest.

	<p>2) The material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law.</p> <p>3) The material, taken as a whole, must lack serious literary, artistic, political, or scientific value. The Supreme Court has indicated that this test is designed to cover explicit adult content.</p> <p>Indecent speech is protected by the First Amendment and cannot be banned in its entirety. However, the courts have upheld Congress's prohibition of the broadcast of indecent speech during times of the day when there is a reasonable risk that children may be in the audience. Broadcasts that fall within the definition of indecency and that are aired between 6 a.m. and 10 p.m. are subject to indecency enforcement action by the FCC. The indecency provisions do not apply to cable or satellite programming.</p> <p>Indecent speech is defined as 'language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.'</p> <p>In the Commission's assessment of whether material is 'patently offensive' context is critical. The FCC looks at three primary factors when analysing broadcast material:</p> <ol style="list-style-type: none"> 1) Whether the description or depiction is explicit or graphic. 2) Whether the material dwells on or repeats at length descriptions or depictions of sexual or excretory organs. 3) Whether the material appears to pander or is used to titillate or shock. No single factor is determinative. The FCC weighs and balances these factors because each case presents its own mix of these, and possibly other, factors. <p>The FCC has defined profanity as 'including language so grossly offensive to members of the public who actually hear it as to amount to a nuisance'. Like indecency, profane speech is prohibited on broadcast radio and television between the hours of 6 a.m. and 10 p.m.</p> <p>To enable the V-chip and other blocking mechanisms (see below), broadcast, cable, and satellite firms, on a voluntary basis, rate programming using entertainment industry-devised TV ratings system guidelines and encode programmes accordingly. The vast majority of television programming, except for news and sports programming as well as advertisements, carries an age-based TV rating set by programme networks and producers, and most include content-based ratings as well.</p> <p>A programme rating appears in the upper left-hand corner of the television screen at the beginning</p>
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		<p>of each programme. When the V-chip is activated, all programmes with the rating specified are blocked and cannot be accessed on that television set.</p> <p>As of 1 January 2000, all television sets manufactured in the United States or shipped in interstate commerce with a picture screen of 13 inches or larger must be equipped with a 'V-chip' system that can be programmed to block violent, sexual, or other programming.</p> <p>The Commission has adopted rules to ensure that V-chip functionality is available in households with digital television sets. The Commission mandated that new digital television receivers must be able to process new ratings should they be developed. The Commission adopted standards that do not preclude manufacturers from incorporating additional blocking standards or techniques into receivers, thereby permitting manufacturers to develop V-chip technology that can be used in conjunction with additional ratings systems.</p> <p>The Commission has encouraged broadcasters to consider various ways of improving V-chip usefulness, including making available in their programming a link to a website where parents and other viewers can get additional information about programme ratings and the V-chip, once such technology or functionality is available to consumers.</p> <p>All digital cable subscribers, more than 25 million nationwide, have set top boxes with parental control functions. All DBS subscribers, more than 25 million nationwide, also have set top boxes that can be used to control content in much the same manner as the V-chip; that is, by blocking content based on programme ratings and viewer-selected criteria used in tandem with in-home reception equipment. While not all boxes have the same features, a digital box might allow viewers to block programming based on time and date, channel, programme title, TV rating and/or motion picture rating. There is no government mandate to require such blocking mechanisms in these set top boxes.</p> <p>Under Section 624 of the Communications Act, cable operators must provide 'lockbox' technology to cable subscribers upon request to prevent the viewing of any channel on which objectionable programming may appear. Cable operators are required to make lockboxes available for sale or lease to customers who request them.</p> <p>Section 624(d)(3) of the Communications Act specifies that if a 'cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such channel,' the cable</p>
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		<p>operator must, 30 days before such channel is provided without charge:</p> <ol style="list-style-type: none"> 1) Notify its subscribers of its plan. 2) Notify its subscribers of the time when the premium channel will be offered without charge. 3) Notify its subscribers that they have a right to have the premium channel blocked. 4) Block the channel upon the request of any subscriber. <p>Under Section 640 of the Communications Act, a cable operator is required to fully scramble or block the audio and video portions of programming services not specifically subscribed to by a household. A cable operator must fully scramble or block the programming in question upon the request of the subscriber and at no charge to the subscriber. This requirement does not apply to DBS.</p>
<p>2. Harm, offence, crime, violence and pornography</p>	<p>& PSB Commercial TV</p>	<p>The First Amendment guarantees the freedom of speech, thereby protecting programming that stereotypes or otherwise offends people with regard to their religion, race, national background, gender, or other characteristics. It also protects broadcasts that criticize or ridicule established customs and institutions, including the government and its officials. If there is to be genuine free speech, people must be free to say things that the majority may abhor, not only things that the majority finds tolerable or congenial.</p> <p>The FCC does not currently regulate the broadcast of violent programming. On 28 July, 2004, however, the FCC opened an inquiry into violent programming and its effect on children.</p> <p>The Constitution protects advocacy of using force or of violating the law. However, the Supreme Court has said that the government may curtail speech if it is both:</p> <ol style="list-style-type: none"> 1) intended to incite or produce dangerous activity; and 2) likely to succeed in achieving that result. <p>Even where this ‘clear and present danger’ test is met, any review that might lead to a curtailment of speech should be performed by the appropriate criminal law enforcement authorities, and not by the FCC.</p> <p>Federal law prohibits the broadcasting of obscene programming (for definition, see section ‘Protection of minors’).</p> <p>For rules applying to indecent speech and profanity, see section ‘Protection of minors’.</p>

		<p>Broadcast hoaxes. Broadcasting false information concerning a crime or a catastrophe¹⁰ violates the FCC's rules if:</p> <ul style="list-style-type: none">- The station knew the information was false.- Broadcasting the false information directly caused substantial public harm.- It was foreseeable that broadcasting the false information would cause substantial public harm.
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REFERENCES

1. Updated Communications Act: www.fcc.gov/Reports/1934new.pdf
2. http://www.fcc.gov/mb/audio/decdoc/public_and_broadcasting.html#OBSCENE
3. The 1992 Cable Act, the Communications Act and: www.fcc.gov/mb/facts/csgen.html
4. Code of Federal Regulations:
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=e6f5a63b94b387563e840258c687c5bd&rgn=div5&view=text&node=47:4.0.1.1.2&idno=47#47:4.0.1.1.2.3.1.2>
5. FCC, Report and Order in the Matter of Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees, 2001: www.fcc.gov/Bureaus/Mass_Media/Orders/2001/fcc01306.pdf and www.fcc.gov/mb/policy/public.html
6. FCC Report And Order And Further Notice Of Proposed Rule Making adopted 9 September, 2004: http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-04-221A1.pdf
7. Acceptable 'enhanced underwriting' acknowledgements of for-profit donors may include 1) logograms and slogans that identify but do not promote; 2) location information; 3) value-neutral descriptions of a product line or service; and 4) brand names, trade names, and product service listings.
8. Title 47 of the Code of Federal Regulations: <http://wireless.fcc.gov/rules.html>
9. Dual-language broadcasting shall be understood to mean the telecasting of a programme in one language with the simultaneous transmission, on the main channel of a participating FM broadcast station, of companion sound track information in a different language.
10. In this context, a 'crime' is an act or omission that makes the offender subject to criminal punishment by law, and a 'catastrophe' is a disaster or imminent disaster involving violent or sudden events affecting the public. 'Public harm' must begin immediately; it must cause direct and actual damage to property or to the health or safety of the general public, or diversion of law enforcement or other public health and safety authorities from their duties. Code of Federal Regulations:

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=e6f5a63b94b387563e840258c687c5bd&rgn=div5&view=text&node=47:4.0.1.1.2&idno=47#47:4.0.1.1.2.3.1.2>

The United States is a signatory to the following bi-lateral agreements that relate, in whole or in part, to TV broadcasting:

1. Bi-lateral Agreements between the United States and Canada relating to AM, FM and TV Broadcasting.
2. Bi-lateral Agreements between the United States and Mexico relating to: AM, FM and TV Broadcasting.
3. North American Regional Broadcasting Agreement (NARBA), which, for the United States, remains in effect with respect to the Dominican Republic and the Bahama Islands.

APPENDIX EUROPEAN UNION LEGISLATION

Relevant EU legislation:

- Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (the **Television Without Frontiers Directive** or **TWF Directive**):

<http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31989L0552:EN:HTML>

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31997L0036&model=guicheti

Commission interpretative Communication on certain Aspects of the Provisions on televised Advertising in the ‘Television without Frontiers’ Directive, published in the Official Journal of the European Commission, 2004/C/102/2 of 28 April 2004.

This interpretative communication became necessary to provide an answer to the question how the relevant provisions of the Television Without Frontiers Directive apply to new advertising techniques — more uniform definition of the hourly and daily amount of advertising.

- Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (the **Universal Service Directive**): europa.eu.int/.../new_rf/documents/l_10820020424en00510077.pdf

Other European reference texts mentioned in national acts:

- The European Convention on Human Rights.
- The Prague (1994) and Cracow (2000) Resolutions on mass media policy of the European Council.

Summary of provisions made by the ‘Television Without Frontier’ Directive with regard to content

N.B. A number of Member States chose to lay down stricter rules than those stipulated by the ‘Television without Frontier’ Directive.

■ **Protection of minors and public order**

Programmes which might seriously impair the physical, mental or moral development of minors are prohibited, in particular programmes that involve pornography or gratuitous violence. Those which might simply be harmful to minors, where they are not encrypted, must be preceded by an acoustic warning or made clearly identifiable throughout their duration by means of a visual symbol.

Broadcasts must not contain any incitement to hatred on grounds of race, sex, religion *or nationality*.

■ **European, independent and recent productions**

Where practicable and by appropriate means, broadcasts forming part of a national network must ensure that:

- European productions account for over 50% of the transmission hours of each broadcaster,
- European independent productions account for at least 10% of transmission hours; of these, an ‘adequate proportion’ must be works transmitted within five years of production.

Excluded are:

- a) The time appointed to news, sports events, games, advertising and teletext services or teleshopping.
- b) Broadcasters that serve a local or regional audience, and do not form part of a national network.

■ *TV advertising*

The proportion of transmission time devoted to teleshopping spots, advertising spots and other forms of advertising, with the exception of teleshopping windows, (including self-promotion and excluding public service messages and charity appeals) shall not exceed 20% of any given clock hour.

The transmission time for advertising spots shall not exceed 15 % of the daily transmission time.

Provisions made by the ‘Universal Service Directive’ Directive with regard to ‘Must carry’ obligations (excerpt) (part of the electronic communications regulatory framework:

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32002L0022&model=guichett

Article 31, ‘Must carry’ obligations

1. Member States may impose reasonable ‘must carry’ obligations, for the transmission of specified radio and television broadcast channels and services, on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcasts to the public where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts. Such obligations shall only be imposed where they are necessary to meet clearly defined general interest objectives and shall be proportionate and transparent. The obligations shall be subject to periodical review.

2. Neither paragraph 1 of this Article nor Article 3(2) of Directive 2002/19/EC (Access Directive) shall prejudice the ability of Member States to determine appropriate remuneration, if any, in respect of measures taken in accordance with this Article while ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks. Where remuneration is provided for, Member States shall ensure that it is applied in a proportionate and transparent manner.

Article 43

Currently, Member States impose certain ‘must carry’ obligations on networks for the distribution of radio or television broadcasts to the public. Member States should be able to lay down proportionate obligations on undertakings under their jurisdiction, in the interest of legitimate public policy considerations, but such obligations should only be imposed where they are necessary to meet general interest objectives clearly defined by Member States in conformity with Community law and should be proportionate, transparent and subject to periodical review. ‘Must carry’ obligations imposed by Member States should be reasonable, that is they should be proportionate and transparent in the light of clearly defined general interest objectives, and could, where appropriate, entail a provision for proportionate remuneration. Such ‘must carry’ obligations may include the transmission of services specifically designed to enable appropriate access by disabled users.

Article 44

Networks used for the distribution of radio or television broadcasts to the public include cable, satellite and terrestrial broadcasting networks. They might also include other networks to the extent that a significant number of end-users use such networks as their principal means to receive radio and television broadcasts.