

Global Domination of HBO: Will the EC have an Answer?



September 30 is the deadline for the European Commission's **consultation on preparing for a fully converged audiovisual world**. The EC wants to revise the Audiovisual Media Services Directive (**AVMSD**), which was last updated in 2010, in the light of the rapid proliferation of connected TVs, video on demand, and internet enabled games consoles. In its **green paper** the Commission reminds us what EU policy in this area is mainly about: countering competition from the US.

Back in 1989 when the EC **first entered this policy arena** the idea was that creating a bigger common market within Europe would be advantageous for European producers and broadcasters. ITV would sell programming to stations in Germany, who would sell theirs to stations in Greece, etc., and European producers would benefit, nudged along by a not quite binding obligation on European broadcasters to air at least 50% European works. As the **EC's paper** acknowledges in sections 2.1 and 2.2, this has not quite worked, despite the increased opportunities for dissemination that new technologies afford. These same technologies could just unleash a new, un-mediated form of US audiovisual dominance as new on-demand and cloud services undermine existing broadcasters.

AVMSD's Failed Protectionism

Broadcasters generally comply with the European works quotas but do so by broadcasting content from their own countries, not other European countries. According to the paper only 8.1% of broadcast hours in the EU contains European content that is not from the broadcasters home country. **Recent research** done for the Commission by the Joint Research Centre showed that non-European content, mostly American, was clearly winning in terms of quantity across Europe. US companies appear to be making better use of the common market than European ones.

The **research** mentioned above also argued that the spread of Pay-tv services is facilitating the domination of American content as US Pay-tv channels are more inclined to invest in content than their European counterparts. At the same time it found that in Spain domestically produced fiction still topped the rating charts, just below football and well above any non-domestic programmes, even American. So how should EU policy intervene in order to foster the "competitive and integrated European audiovisual media industry" envisioned in the AVMSD?

Fostering European Content in the Future?

In order to answer that question, policymakers will first need responses to the most important questions posed in the EC's consultation:

"How will convergence and changing consumer behaviour influence the current system of content financing? How are different actors in the new value chain contributing to financing?"

These questions do challenge one to predict the future, but there are notable market developments that could give some indications. For example, Netflix and similar services are investing in original content, while in the UK British Telecom is buying premium sports rights from under the noses of broadcasters and the BBC remains a powerhouse of European content production. The House of Lords Select Committee on Communications' **report on media convergence** concluded that public service broadcasting would likely be even more important to maintaining a "healthy media ecology" in an increasingly converged environment. The recent successes of Scandinavian crime dramas that had significant PSB involvement seem to support that claim, but others might argue for encouraging more crossover by the rich network **operators** into content production – or both.

The current version of AVMSD introduced an awkward definition of “television-like services” and attempted to account for non-linear services in some ways, but these are not likely to be adequate for converged services in the future. The consultation asks how relevant are difference among platforms particularly for consumer experiences and public interest obligations, and whether distortions are caused by regulatory differentiation between linear and non-linear services. Are existing rules or distinctions creating barriers to investment in content by non-traditional players and if so, should they be removed? Are there public service obligations that should apply to them as well?

Best Guesses Needed

The EC’s vision according to the green paper is “the widest possible access to European diversified content for all Europeans and the widest possible choice of high quality offers.” If they are to update current EU policy in a way that helps achieve this vision, European policymakers will need to have at least the collective best guesses on: What and how will people be watching? How will companies in the sector, including public ones, be generating income and investing it?

There are a few days left to submit your evidence, ideas or predictions. Any input will probably be welcome, especially if you can get your hands on a functioning crystal ball.

This article gives the views of the author, and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics.

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