



Focus on broadcasting policy issues in the EU

A new Europe is emerging in 2004, and policy makers will have to deal with many issues which are relevant to broadcasting activities.

The EBU would like to introduce itself and set out its objectives regarding European audiovisual policy.

The EBU – The largest association of national broadcasters in the world

Under its Statutes, the EBU "contributes to the reinforcement of the identity of the peoples of active Members' states, in accordance with human rights and in particular freedom of conscience, opinion and expression, while safeguarding fundamental values such as tolerance and solidarity".

The EBU was founded in 1950 by the pioneers of radio and television in Western Europe. When, in 1992, it merged with OIRT – its counterpart in Eastern Europe – co-operation with broadcasters in that region had already existed for many years. The EBU supports such Members' efforts to transform themselves into genuine public service broadcasters.

The EBU is the world's largest association of national broadcasters,

with 71 Members operating in 52 countries, including all the public service broadcasters of the existing and new Member States of the EU. It also has active Members in North Africa and the Middle East, and 46 associate Members in 29 countries in other parts of the world.

The EBU operates the Eurovision and Euroradio networks, organizes programme exchanges, promotes and co-ordinates co-productions, and provides whatever operational, technical, legal and strategic services its Members need. The EBU Brussels Office represents the interests of public service broadcasters vis-à-vis the European institutions.

The permanent Eurovision network (up to 50 digital channels on satellite) carries daily exchanges of programmes and news features. Eurovision is the world's largest television relay network, and one of the most reliable communications networks of its kind. Whether the content is news, sport or special events, Eurovision is the strongest link in the distribution chain.

Eurovision in figures

- More than 100,000 relays in 2002.
- 15,000 hours of sporting and cultural events relayed each year.
- 30,000 individual items of news exchanged.
- 50 channels on five satellites.
- 70 satellite links worldwide.
- More than 700 digital decoders in service.
- More than 300 television channels equipped for direct reception.

As regards television, the EBU facilitates co-operation in many fields, such as the co-production of animated cartoon series, educational programmes and documentaries, as well as awarding prizes for script writers and young musicians and dancers and, of course, running the time-honoured Eurovision Song Contest.

Co-operation in the field of radio also has many different facets: music, news, sport, programmes for young people, and local and regional radio broadcasting. Each year, the Euroradio network is responsible for relaying 2,500 concerts and operas, and the Radio Department coordinates the transmission of 440 sporting fixtures and 120 major news events.

Technical co operation includes research and development in new broadcasting media. The Technical Department has led or contributed to the development of many new radio and television systems, and particularly digital audio broadcasting (DAB), digital video broadcasting (DVB), high-definition television (HDTV) and the radio data system (RDS).

Co-operation among legal experts, with support from public affairs experts and the EBU's Strategic Information Service, enables the EBU to keep a close watch on the development of European legislation and the work of international organizations active in areas of relevance to broadcasting. The EBU can therefore offer informed opinions and valuable assistance to policy makers and fulfil its statutory role as a professional interlocutor with European institutions and international organizations.

Public service broadcasting in Europe

The EBU represents the interests of the national broadcasters in general, but is especially concerned with defending public service broadcasters at the European level.

The European audiovisual landscape is characterized by a dual system of public service broadcasting and commercial broadcasting.

Each Member State of the European Union has competence for defining the mission of its public service broadcasting services, taking account of the particular national situation. The aim is to ensure pluralism of information, cultural diversity, universal access to major public events, a healthy democratic debate, and quality entertainment.

Public service broadcasters make a vital contribution to the audiovisual sector:

Production activity of PSBs*

- 5,000 hours of fiction programmes
- 30,000 hours of news
- 25,000 hours of factual and information programmes
- 3,600 hours of children's and youth programmes
- 4,200 hours of educational programmes
- 4,000 hours of documentaries

* Source: EBU data for the year 2001

As this sector undergoes rapid change with the advent of the information society, PSBs are – thanks to investment in new technology – contributing to the emergence of new digital services and are providing some of the most frequently visited websites.

European policy

Public service broadcasters fall within the Member States' field of competence. The application of European law to their activities is therefore a very complex matter and has to respect the specificity of the sector, which is recognized by, in particular, the Amsterdam Protocol on the system of public broadcasting in the Member States (Protocol No. 32 to the EC Treaty).

The EBU supports and actively contributes to European policies which aim to:

- o safeguard freedom of expression, the independence and pluralism of the media, and cultural diversity;
- o ensure that everyone has access

to impartial news and information and to major public events, as well as to programme content which is diversified, pluralistic and comprehensive;

- o guarantee that public service broadcasters are funded on a legally secure basis, thereby allowing them to fulfil their public service mission;
- o enable all audience categories to have access to a wide range of programmes and services on all distribution platforms;
- o promote a competitive digital television market, with open, interoperable standards;
- o ensure that consumers and citizens benefit as much as possible from technological progress;
- o guarantee the protection of minors in the new digital environment;
- o ensure balanced protection of copyright and related rights, so as to reconcile the interests of rights-holders, users and the public.

A number of current European issues are concerned, directly or indirectly, with these objectives. They are the subject of specific sheets presented here.

If European citizens are to continue to benefit from the services provided by public service broadcasters, it is vital for Europe and its Member States to retain the freedom to implement ambitious audiovisual policies. In the areas of cultural diversity (UNESCO), trade (WTO) and frequency allocation (ITU), Europe and its Member States must be vigilant to ensure that the European audiovisual model continues to thrive.

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Current review of the Television without Frontiers Directive

European audiovisual policy requires clear, coherent regulation so that there is an effective guarantee of such general interests for society as access to information, cultural diversity and the protection of minors.

The Television without Frontiers Directive is the cornerstone of European audiovisual policy and the regulation of audiovisual content. In the new digital environment the key issue is whether a new approach to regulating audiovisual content is necessary. It is a major challenge to adopt a regulatory framework for television broadcasting and new interactive audiovisual services which is as coherent as possible, and a graduated approach may be required.

Technological developments make no change to the general interest objectives which have to be respected by all audiovisual services. The scope of the Directive, or a future instrument which replaces it, should not be limited to removing obstacles to the internal market for audiovisual services but should take clear account of such other general interest objectives as access to information, media pluralism and cultural diversity.

Advertising

The principles of clearly identifying advertising and separating advertising from editorial content, as well as respect for the broadcaster's editorial independence, belong to a set of fundamental principles which, in the public interest, have to be applied to all forms of traditional and new advertising.

Advertising plays a vital role in sustaining free to air broadcasting in Europe including - in most countries - public service broadcasting. Broadcasters should continue to be able to use this source of funding, with due respect for the interests of viewers/consumers.

The Directive lays down a set of key qualitative rules which need to be maintained and applied to all new advertising techniques. The introduction of any new form of advertising must respect the interests of viewers/consumers, the editorial independence of the broadcaster and the integrity of the signal broadcast, as well as the integrity of audiovisual works. Consequently, no commercial communication must be inserted at any level (programme production,

transmission or on screen presentation) without the prior consent of the broadcaster, not least to avoid spoiling the viewing comfort of the audience. It is for these reasons that in May 2000 the EBU adopted a Memorandum on virtual advertising, to guarantee that the technique was used in a balanced way which was satisfactory for the viewer and that it was not inserted without the broadcasters' knowledge.

Protection of minors

The principle of the protection of minors is a fundamental one which needs to be extended to all audiovisual services communicated to the public.

The protection of minors should be a priority in European audiovisual policy, especially regarding the development of electronic media, including the Internet. The protection of minors is a principle which has to be respected regardless of the nature of the medium or its form of transmission. It should not be considered only from a purely defensive standpoint (parental control techniques) but should also cover key positive measures such as quality programming for children and

improving media literacy. The idea of common pictograms at the European level, akin to road signs, needs to be examined in greater detail; however, there should be no obligation on broadcasters to insert visual symbols throughout television programmes.

Access to information

Access to information requires that all citizens should be able to enjoy major sports and cultural events on free television and that broadcasters have a right

to present to the public extracts regarding any event of high interest to the national society.

The basic human rights of freedom of expression and information gathering cannot be realized without guaranteeing access to such information. Such access should include the right to be informed of all events which even if taking place abroad are of particular interest to society. Consequently, Member States should ensure that virtually all their citizens can view major sports

and cultural events on free television, while for events taking place on their own territory, news access should be available also to broadcasters from other Member States.

For further information see the EBU Contribution of 15 July 2003 on the review of the Television without Frontiers Directive (available at the EBU website www.ebu.ch under "Position Papers").

State of procedure

<i>Television without Frontiers Directive 89/552/EEC</i>	<i>3 October 1989</i>
<i>revised by Directive 97/36/EC</i>	<i>30 June 1997</i>
<i>Council Recommendation on the protection of minors and human dignity</i>	<i>24 Septembre 1998</i>
<i>Communication on the future of European regulatory audiovisual policy</i>	<i>15 December 2003</i>
<i>Commission interpretative communication on television advertising</i>	<i>28 April 2004</i>
<i>Proposal for updating the Council Recommendation of 1998</i>	<i>30 April 2004</i>

Next stages

<i>Experts' groups and independent studies</i>	<i>2004/2005</i>
<i>Revision of the Television without Frontiers Directive</i>	<i>2005?</i>

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"Telecommunications Package"

Communications technology needs to allow everyone to have access to varied information and content of high quality. A key requirement is the presence of the programmes and services of public service broadcasters on all significant electronic communications platforms.

Given the technological convergence of the networks, in 2002 the European Union adopted a new regulatory framework for electronic communications, often referred to as the "telecommunications package". The main texts were due to be transposed by Member States into their national law by July 2003.

Overall, this new regulatory framework responds to the concerns of broadcasters by making available to the Member States a whole series of specific regulatory instruments alongside general competition law in order to remove, in particular, obstacles related to the development of digital television and to allow broadcasters to reach the public.

It is important now for the Commission and the Member States to make positive use of the room for manoeuvre provided by the various Directives so as to

guarantee such basic general interest objectives as the free circulation of information, media pluralism, cultural diversity and consumer protection.

Interoperability

Only open interoperable standards will allow consumers to have access to a broad range of content and service and permit a competitive market for receivers.

Currently the digital television market in Europe is dominated by certain operators (particularly pay TV channels) which, because of different proprietary standards integrated into or linked to digital decoders or receivers, control the distribution platform. In the absence of the application of open and interoperable standards to some key features in the decoders, such as the interface for the conditional access system (CAS), the application programming interface (API) and electronic programme guides (EPG), these operators are able to restrict access by broadcasters, including public service broadcasters, to viewers, and restrict viewers' access to services. Furthermore, it is not possible for an open competitive market in receivers (which would

increase viewers' choice of equipment and drive down consumer equipment prices) to develop.

Given the provisions of the Framework Directive (and in particular Article 18) every effort must be made to bring about, as swiftly as possible, a digital television market which is open and interoperable, in order to prevent new obstacles from arising, to ensure that viewers have access to a broad range of content and services, and to provide viewers with the lowest prices and highest quality for consumer equipment.

For further information see the EBU's comments of April 2004 on the interoperability of digital interactive television services (available at the EBU website www.ebu.ch under "Position Papers").

Must carry

In the digital environment, must carry rules will remain a fundamental means of ensuring that consumers have access to certain programme services which are of particular importance to society.

The must-carry rules laid down by Member States place an obligation upon a network operator – generally a cable operator – to convey certain radio and television programmes and services which are of particular importance to society, and which are provided for the benefit of all consumers. Without the adoption of such rules, which are recognized by Article 31 of the "Universal Service" Directive, certain network operators could abuse their dominant position by giving special treatment to particular programmes and services, thereby unjustifiably restricting consumers' choice.

It is vital for these rules, which ensure freedom of choice and pluralism of

information for viewers, to be adapted to the digital environment. Moreover, the rules should apply to all broadcasting channels and services which have a public service mission and are subject to universal coverage obligations.

For further information see the EBU's comments of 26 June 2003 on the Eurostrategies report about must carry (available at the EBU website www.ebu.ch under "Position Papers").

Radio spectrum

The specific character of the audiovisual sector needs to be

taken into account in frequency spectrum management and the allocation of transmission capacity, and especially for the development of digital free-to-air television and radio.

With frequencies scarce and competition intense among spectrum users, the specificity of the audiovisual sector needs to be taken into account in frequency management. Certain methods of spectrum management, such as spectrum pricing, trading, and auctioning, are inappropriate for free to air broadcasters, and particularly those with a public service mission, given the democratic, cultural and social roles that they play.

State of procedure

Adoption of "telecommunications package" comprising:

- Access Directive 2002/19/EC
- Authorization Directive 2002/20/EC
- Framework Directive 2002/21/EC
- Universal Service Directive 2002/22/EC
- Radio Spectrum Decision 676/2002/EC
- ePrivacy Directive 2002/58/EC

March/July 2002

Deadline of transposition:

July/October 2003

Follow-up by the Commission:

- Communication on switchover to digital
- Communication on the interoperability of digital interactive television services

September 2003

July 2004

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Funding of public service broadcasting and State aid rules

The Amsterdam Protocol recognizes the specific role and character of public service broadcasting in the Member States of the European Union. Member States have exclusive competence for defining and organizing public service broadcasting and for deciding upon the funding system. When applying State aid rules on the funding of public service broadcasting, including new media services, this specificity needs to be respected.

In recent years a Community framework for applying State aid rules to the funding of public service broadcasting has been established, based on the 1997 Amsterdam Protocol, the 1999 Council Resolution on public service broadcasting and the 2001 Commission Communication on public service broadcasting and State aid. This specific framework, which has allowed the Commission to deal properly with complaints in this area, should not be called into question or put in danger of being undermined.

There is no contradiction between public service broadcasting and

Community policies. On the contrary, as recognized by the Amsterdam Protocol, public service broadcasting contributes to democratic, social and cultural values which are common to the Community; public service broadcasting is thus part of the Community's "common interest" as referred to in the Protocol.

It is the Member States' competence to define and organize public service broadcasting. Given the specific role and nature of broadcasting, the public service mandate can, as recognized by the Commission in its recent decisions on public service broadcasting, encompass a wide range of

programming. In other words, the public service remit should not be limited to programmes and services which commercial operators are not providing; it has to cover the whole range of programming so that the entire public is reached.

The broadcasting media face a rapidly changing and converging environment in which consumers' behaviour and needs are constantly evolving. Interactivity will be a key element. Member States are authorized and required to respond to these dynamic developments with a correspondingly dynamic interpretation of the public service mandate. As the Council recognized in its 1999 Resolution, public service broadcasting has an important role in bringing to the public the benefits of the new media services and technology. This role allows Member States to include the use of new media technology and the provision of new media services in the public service mandate.

The current funding systems of public service broadcasting in Europe are characterized by, on the one hand, a strong, indispensable

element of public funding and, on the other, a plurality of sources. Member States have the freedom to choose the system which is the best suited to evolving national circumstances, also with regard to new media services where they are part of the public service remit.

For further information see the EBU reply of 9 September 2003 to the Green Paper on Services of General Interest (available at the EBU website www.ebu.ch under "Position Papers").

The Amsterdam Protocol on the system on public broadcasting in the Member States states:

"THE HIGH CONTRACTING PARTIES, CONSIDERING that the system of public broadcasting in the Member States is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism, HAVE AGREED UPON the following interpretative provisions, which shall be annexed to the Treaty establishing the European Community: The provisions of the Treaty establishing the European Community shall be without prejudice to the competence of Member States to provide for the funding of public service broadcasting insofar as such funding is granted to broadcasting organisations for the fulfilment of the public service remit as conferred, defined and organised by each Member State, and insofar as such funding does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest, while the realisation of the remit of that public service shall be taken into account."

State of procedure

<i>Amsterdam Protocol</i>	<i>October 1997</i>
<i>Resolution of the Council and of the representatives of the governments of the Member States concerning public service broadcasting</i>	<i>January 1999</i>
<i>Commission Communication on public service broadcasting and State aid</i>	<i>October 2001</i>
<i>Council Resolution on the development of the audiovisual sector</i>	<i>January 2002</i>
<i>Green Paper on Services of General Interest</i>	<i>June 2003</i>
<i>Community Framework on services of general interest</i>	<i>July 2004?</i>

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Copyright and neighbouring rights

Need for balanced copyright framework

Harmonious copyright legislation entails reconciling the interests of rightowners, users and the general public. Users (broadcasters, publishers, phonogram producers, etc.) need to be able to acquire and exploit rights in a simple and efficient manner, in the interests not least of the rightowners themselves.

EBU radio and television Members are not merely broadcasters who disseminate content created by others. In the fields of culture, information, education and entertainment they are also the major force in audiovisual production in Europe today: together they invest roughly four times more in production than does the entire European cinematographic industry. In their dual capacity as producers and communicators they are major employers of authors and performers and offer young talent an attractive environment in which to embark upon an artistic career.

On account of their importance as both rightowners and users of material in which rights are owned

by others, and in serving the general public, EBU Members are directly and immediately concerned by a large number of the issues under discussion in the copyright area. Indeed, the simultaneous right-owner/user perspective obliges the EBU to propose measured, practical legislative solutions.

In the 21st century, public service broadcasters must be able to continue to play their important cultural and democratic role, to the benefit of citizens and consumers alike. Consequently, the challenge for today's policy-makers is to ensure that legislation allows broadcasters to continue, develop and diversify their activities in the digital age, and not least to the benefit of those who have originated their programmes.

The just-published EC Communication on the Management of Copyright and Related Rights in the Internal Market sets out several options for improved development of cross-border licensing and proposes a framework Directive on the governance of collecting societies. The EBU will soon be providing detailed comments on these issues, which are of considerable importance for broadcasters.

Review of EC Satellite/Cable Directive

Genuine availability of audiovisual productions and broadcasts throughout the European Union requires a significant revision of the 1993 Satellite/Cable Directive.

The underlying spirit of the Television without Frontiers Directive is that television programme services should generally be available all over Europe. In parallel, the purpose of the 1993 Satellite/Cable Directive was to facilitate the lawful transmission of broadcasts across frontiers within the European Community, and particularly (at that time) by cable and satellite, further to the fundamental EU principle of freedom to provide services within the internal market. However, neither such facilitation of cable retransmission activities under the Satellite/Cable Directive nor any must-carry provisions under public media/communications law negates in any way the basic obligation imposed on cable operators under copyright law to clear the relevant rights, an obligation confirmed in a number of Supreme Court decisions

in EU countries, as well as by the EU Court of Justice itself.

There is now an even greater demand from EU citizens to have access to television broadcast services originating in a Member State other than the one in which they live. The current review of the Satellite/Cable Directive provides an opportunity to extend its provisions so that they cover today's circumstances, including, inter alia, the following aspects:

- o clarifying that the "country of origin of the transmission" rule applies to Internet streaming, as

for satellite broadcasting; this rule confirms the application of one sole law, i.e. the law of the country where the transmission originates, rejecting the idea that the laws of all countries of reception worldwide should also apply;

- o extending the simplified system of rights clearance, which now facilitates simultaneous cable distribution on a country-by-country basis, to the equivalent rebroadcasting services offered by third-party digital satellite and digital terrestrial bouquet operators;

- o an option for transnational satellite-to-cable programme services to apply a simplified system of rights clearance when they choose to act on behalf of the cable distributors who have legal liability.

A summary of these and other specific points made by the EBU to the EC Commission in the context of a detailed review of the Satellite/Cable Directive can be found at the EBU website (www.ebu.ch).

State of procedure

Satellite/Cable Directive

27 September 1993

Information Society Copyright Directive

22 May 2001

EC Communication on the Management of Copyright and Related Rights in the Internal Market

16 April 2004

Next stages

Revision of the Satellite/Cable Directive

2005?

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Digital rights management

The future development of DRM systems for digital broadcasting must keep broadcast reception technology attractive for all viewers and listeners, via open and interoperable standards, and provide equal access for broadcasters to all digital delivery platforms.

Digital Rights Management (DRM) is a modern keyword which relates to many different aspects of digital communications. Most frequently, it encompasses not only (technical) anti-copying protection measures but also the electronic administration of contractual rights. DRM systems are being developed in order to facilitate the licensing and acquisition of rights through technical means, while also preventing by those means unlawful usage of content protected by such rights.

The objective of making the licensing process easier is generally shared by all stakeholders. However, it needs to be realized that certain mass use of protected matter, e.g. for the broadcasting of music, cannot, in practical terms, be authorized or remunerated otherwise than through collective management agreements.

Moreover, DRM is a complementary (technical) measure only and cannot – and certainly should not – be used to overrule the legal framework for copyright protection. It is of prime importance that any DRM system should include certain safeguards, such as for traditional exceptions or limitations under national copyright laws.

Actual piracy of premium content (feature films, music CDs) takes place long before such content is broadcast, e.g. immediately after or even before the official film or CD releases, so that free to air broadcasters, who are at the very end of the exploitation chain, cannot possibly be held responsible for such illegal activity. Consequently, DRM systems should not be imposed on free-to-air broadcasters, through either contractual or regulatory means.

DRM schemes should not have a negative impact on the transition from analogue to digital broadcasting. This means not only that DRM systems must be acceptable to all stakeholders, including consumers, but also that broadcasters' active implementation of such systems will depend on the openness and interoperability of DRM technology.

Moreover, any DRM scheme must respect the principle of the free flow of information and should not limit the possibilities for free to air broadcasting via satellite. Consequently, any technical solution should allow the broadcaster itself to decide whether or not it wishes to encrypt the broadcast signal at the source.

Given the complexity of the various issues involved in DRM schemes, and the fact that EBU broadcasters act not only as major producers but also as users and distributors of protected content, and have a special relationship with their audience, EBU Members have set out a number of basic principles and requirements which any DRM system would need to meet before such measures could be proposed for digital broadcasting.

They include:

- o Any DRM system should respect the underlying principles of European Community law and policies, such as the free movement of broadcasting services, on the basis of the country of origin principle;
- o Any DRM system for broadcasting must guarantee the integrity of the broadcast signal and the editorial freedom of broadcasters;
- o Concerning private use for time shifting purposes, DRM systems should not negatively affect the attractiveness of digital technology for viewers/listeners, thereby jeopardizing a rapid change over from analogue to digital broadcasting;
- o DRM systems should ensure the availability of broadcasting services to the public over all the various media platforms (e.g. terrestrial, cable, satellite, UMTS).

For further information see the EBU Memorandum on Digital Rights Management of 20 May 2003 (available at the EBU website www.ebu.ch under "Position Papers").

State of procedure

<i>Information Society Copyright Directive</i>	<i>22 May 2001</i>
<i>Commission DRM Workshops and Conferences</i>	<i>2002-2003</i>
<i>DRM High Level Group meetings</i>	<i>2004</i>
<i>EC Communication on the Management of Copyright and Related Rights in the Internal Market</i>	<i>16 April 2004</i>

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Applicable Law

Draft Rome II Regulation

In defamation and privacy cases, only the country of origin principle can guarantee freedom of expression and freedom of the media.

Clear identification of the applicable law, and particularly with respect to transfrontier cases of defamation, privacy and other content issues, is crucial for broadcasters, and the media in general, in their role as guarantors of freedom of expression.

Broadcasting has always had a transfrontier aspect because airwaves do not stop at frontiers. Today's reality is that cross border reception of television and radio has greatly increased in Europe thanks to cable and satellite networks (and is now also starting on the Internet), and this has contributed to the free flow of information.

The application of the general rule of Rome II as proposed by the Commission, i.e. the application of the law of the country in which the damage arises, could lead to the simultaneous application of numerous foreign laws in transfrontier media cases. With regard to transmission via satellite,

for example, this could result in the application of the laws of all countries covered by the satellite footprint. Through Internet streaming, services can even be received worldwide. However, concerning the protection of privacy and personality rights, laws differ significantly from one EU Member State to another. Differences are even greater with regard to countries outside Europe, where there is no equivalent to the European Court of Human Rights to supervise respect for freedom of expression.

A situation may arise where a publication or broadcast would be blocked outright, or its further dissemination prevented, because the law of just one other country differs from the law of the country where the publisher or broadcaster is established. The application of a foreign law could also lead to claims for financial compensation even though the content of a particular publication or broadcast is perfectly

legal in the country where the publisher or broadcaster is established.

Whereas journalists and programme-makers naturally have to know and respect privacy and personality rights in the country in which they work, they cannot be expected to be aware of all the laws of all the countries where the programme can be received. They would constantly be working in a situation of legal uncertainty. This would have a chilling effect on them, reduce the scope for difficult and controversial information programmes and thus ultimately limit freedom of expression and the media.

In trying to avoid any possible problems, broadcasters might also seek ways of restricting the transfrontier reception of their (free to air) broadcasts, particularly through the use of encryption, thereby reducing citizens' access to information. Furthermore, such a situation would create obstacles for the functioning of the internal market, for which the Television without Frontiers Directive and the Satellite/Cable Copyright Directive lay the foundations with regard to broadcasting. Both Directives have

been established to facilitate trans-frontier broadcasting, an objective that has been achieved by applying the country-of-origin principle in the Directives' respective areas.

As regards transfrontier media cases, specific rules are necessary. Accordingly, the EBU's main proposal is to amend the provision of the draft Regulation dealing with violations of privacy and rights relating to the personality with a view to designating, in principle, the law of the country of origin, which normally coincides with the main

distribution area. With this solution, legal certainty, freedom of the media and the proper functioning of the internal market will be ensured.

In line with the general objective of the draft Regulation to provide legal clarity and certainty, a further amendment proposed by the EBU is aimed at clarifying the provision regarding infringements of intellectual property rights. It is important that this provision should specifically refer to the law of the country in which the act of infringement was committed.

For further information see the EBU Position Paper on Rome II of 23 January 2004 (available at the EBU website www.ebu.ch under "Position Papers").

State of procedure

<i>Commission</i>	
<i>Proposal for Regulation on the law applicable to non contractual obligations ("Rome II") COM(2003)0427</i>	<i>22 July 2003</i>
<i>Parliament (co decision)</i>	
<i>First reading</i>	<i>Autumn 2004</i>
<i>Council Common position</i>	<i>?</i>

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