

Internet and Internet Protocol Television (IPTV) Regulation

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Reasons for regulation of communications generally

- Ensure technical quality
- Boost the sector and encourage growth
- The special role of media in society
- Protect the public and consumers
(particularly minors)

Why regulate broadcasting?

- The frequency spectrum as a limited natural resource
- Convergence of technologies, many uses of the frequency spectrum
- The impact of broadcasting as compared to other forms of media, influences public opinion
- The special role of broadcasting in society (education, culture, minority cultures)
- The potential harm possible through media (incitement to hatred and violence, defamation)
- The special role of broadcasting in elections
- Advertising and broadcasting (consumer protection)

Why regulate the Internet?

- No spectrum issues, and less of an impact than broadcasting, more fragmented, but:
 - Content may be harmful to minors
 - Content may encourage harm to adults, incite violence, crime and disorder, carry messages of racial and ethnic hatred, offend religion or other values
 - Need to encourage growth in the sector

Questions of jurisdiction

- Is the media outlet headquartered in the territory?
- Are there offices in the territory?
- Are the means of transmission in the territory?
 - Terrestrial broadcasting, cable operators
 - Satellite broadcasting—uplinking
 - Internet—cable, phone lines, ISPs
 - IPTV
- Are the content creators and providers in the territory?
- Is it possible for users to access without any other presence by the media outlet in the territory?
 - Internet

Jurisdiction

- If there is no jurisdiction (no attachment to the country as explained), cannot take action against the media outlet
- There may be limited action possible (take-down of content from cable or internet, etc.)
- Co-operation with foreign authorities

Regulation of Internet content:

How is the Internet used?

- Users search and select content
- Users can protect themselves and their children with filtering software
- Often used alone
- Usually used by older teens or adults or with adult supervision
- Content posted and hosted abroad can be accessed as easily as local content

Internet TV v. IPTV

- Internet TV: content is transmitted across the public internet to the private internet access system into the homes (streaming or on-demand)
- IPTV: content usually delivered directly into the private access system coming into the home. Watched like television.

IPTV: What is it?

- For the user, IPTV is a replacement, not complementary, technology
- IPTV can deliver digital television, data, voice, connectivity services, video on-demand
 - can replace all others
 - triple and quadruple play

Internet TV: What is it?

- Based on existing Internet technology, nothing particularly special about publication or transmission
- Open to any publisher whether an individual creating material for one person, or trying to reach a larger audience
- Accessible generally from any computer
- Based on the experience of the individual Internet user—where and how they search
- Examples: user-generated content (YouTube), VOD, portals

Internet regulation, generally

- Lighter regulation than other media most everywhere.
- There seems to be a hesitation to burden what is seen as an exciting new medium with excessive restrictions.
- Internet requires activity by the user.
- Also, there is a recognition that, absent filtering, little can be done to prevent access to internet content, as restricted content can be hosted and accessed from abroad.
- Until relatively recently, the internet was most similar to print media, made up largely of text and static photographs. All of this is changing as technology for streaming audio and video content is improving.

Internet TV: Regulation

- Internet TV does not exist from a regulatory perspective – it is just another website
- Same regulation as for other Internet services applies, e.g., in a ‘light touch’ jurisdiction:
 - No specific restrictions, no license requirements
 - Laws of general application fully apply (copyright, civil code, antitrust, criminal law)
 - Other regulations (e.g. age verification system)

IPTV v. Broadcasting Regulation

- Different regulatory treatment between the two
- Strong regulation of broadcasting because of its ability to influence public opinion
- Light regulation of IPTV because of fragmented audiences: less influence on public opinion

IPTV Regulation

- IPTV providers are primarily telecoms companies offering DSL lines
- IPTV has been broadly regulated under telecoms law, even though it provides a full-channel pay television service similar to cable.
- Content regulation: in theory, should like that for web services, not broadcasting services

IPTV Regulation

- But, IPTV networks and cable networks are able to carry the same content and service
- In EU, new rules for audio-visual services to be based on content, rather than mode of delivery
 - Distinguish between traditional broadcast or linear (*'push'*) services and *'on-demand'* (*'pull'*) services
 - *'On-demand'* services to be subject only to a basic set of minimum principles (E.g. to protect minors and prevent incitement to racial hatred)

IPTV Regulation in the EU

- Authorisation to operate electronic communications network: Registration or notification to, or authorisation by, the communications regulator
- VOD programmes: no or minimal requirements vis-à-vis broadcast regulator
- Distribution of programmes only: no requirement or notification only of broadcast regulator
- If editorial control over content of programmes: licensing by broadcast regulator